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PROCEEDINGS

of the

**SELECT COMMITTEE APPOINTED BY THE LEGISLATIVE
OF THE PROVINCE OF ONTARIO, TO ENQUIRE INTO
AND REVIEW THE CEMETERY ACT AND REGULATIONS
MADE THEREUNDER.**



Mr. J. N. Allan, Chairman, Presiding.

Mr. John Scott, Secretary.



VOLUME III

Monday, September 14, 1953.

Toronto, Ontario.

(Mrs) J. A. Wilde,
Official Reporter,
Parliament Buildings,
Toronto, Ontario.

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T H I R D D A Y

Toronto, Ontario,
Monday, September 14, 1953.
10:00 o'clock, a.m.

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The further proceedings of this Committee re-
convened pursuant to adjournment.

PRESENT:

Mr. J. N. Allan, Chairman,
Presiding.

Messrs: Hanna,
Whitney,
Hall,
Thomas (Ontario),
Sandercock,
Root,
Gordon,
Lyons.

Mr. John Scott, Secretary.
Doctor A. E. Berry, (Department of Health)
Mr. Walker, (Solicitor for the Committee)



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APPEARANCES:

Mr. J. D. Arnup, representing the Toronto
General Burying Grounds.

Mr. Arthur Kelly, representing the Ontario
Cemeteries Association.

Mr. Joseph Sedgwick, Q.C., representing the
Memorial Gardens Association
(Canada) Limited.

Mr. F. H. Cook, Secretary-Treasurer of the
Guelph Cemetery Commission.

Mr. Fred C. Clark, Toronto General
Burying Grounds.

Mr. Wilson M. Stewart, representing the Ontario
Cemetery and Genealogical
Association (Kingston District

Mr. Edwards, representing the Memorial Gardens
Association (Canada) Limited.

Doctor R. L. Carefoot, Windsor.

Mr. E. C. Branscombe, Toronto.

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THE CHAIRMAN: Gentlemen, it is a few minutes
after 10:00 o'clock and I think we should get started.
We plan to give the Toronto Burying Grounds the opportu-
nity of presenting their brief now, if they are ready.

MR. J. D. ARNUP: Thank you, Mr. Chairman.
Mr. Chairman and gentlemen, my name is John Arnup and I
am appearing for the trustees of the Toronto General Bury-
ing Grounds, and I propose to argue from and around a

ATTENDANCE:

Mr. J. H. Brown, representing the Toronto
General Building Trades.

Mr. Arthur Kelly, representing the Ontario
Construction Association.

Mr. Joseph McHugh, C.E., representing the
General Building Trades Association
(Toronto District).

Mr. E. J. Doherty, representing the
General Building Trades Association.

Mr. Fred L. Clark, Toronto District
Building Trades.

Mr. William H. Brown, representing the Ontario
General Building Trades Association
(Toronto District).

Mr. Arthur Kelly, representing the Ontario
Construction Association (Toronto District).

Deputy A. M. McIntosh, Ontario.

Mr. F. G. Richardson, Toronto.

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THE CHAIRMAN: Gentlemen, it is a pleasure

after some delay and I think we should get started.

We plan to give the Toronto Building Trades the opportunity

to present the case first and, if they are ready,

Mr. J. H. Brown, please stand, Mr. Chairman.

Mr. Chairman and gentlemen, we have in front of us a

question for the solution of the Toronto General Building

Trades, and I propose to give them an hour and a half

written brief which has been prepared and of which the Secretary has been provided with copies. I think you will find it useful, if the Secretary will kindly let the Committee members have a copy.

There are three things which I would like to say in the way of preliminaries to the presentation of the Trustees.

First is the brief itself, that the trustees welcome the opportunity of making this presentation and are particularly glad that the Legislature has seen fit to appoint this committee to inquire into matters which the trustees regard as of great public concern.

The second observation I would like to make is this, that this so-called brief is intended to be just that. It is simply a short statement of our position, and there are a number of matters which we have not touched upon at all in the brief. They were mentioned by Doctor Berry in his initial outline of the situation, and we have not endeavoured to cover the whole of the field at all, but merely to bring to the attention of the Committee what we regard as some of the important points involved.

The third thing which I would like to say, perhaps by way of self-defence in advance, is this: I and my colleagues, by whom I am surrounded, are only lawyers.

My firm has acted for the trustees for a great many years, but I do not profess to be myself an expert on cemeteries. However, Mr. Clark is here with me, along with others who have had long experience in the subject, and if the Committee has any questions from time to time, it is unlikely that I will be able to answer them myself, but I will undertake to get the answers with reasonable speed.

May I say a word first of all about the trustees whom I represent. As the brief indicates, this organization has been operating since 1826, and has had continuous existence to the present time, at first an unincorporated body, and since the year 1871, as a corporation incorporated by a special act of the Legislature.

Originally it was organized to meet the needs of a small town known as "York", and as York has expanded, so have the operations of the trustees expanded to meet the needs of the persons who settled within that area. At the present time, the trustees operate the cemeteries known as Mount Pleasant, The Toronto Necropolis, Prospect and Pine Hill, and more recently, York Cemetery as well. The Toronto Necropolis is one of the old cemeteries and is situated on Winchester Street near the Riverdale valley. The Prospect Cemetery is in the north-west part of the City, north of St. Clair and Lansdowne and extending to Rogers Road. Pine Hill Cemetery is in the

eastern part of the area, in Scarborough, and York Cemetery is north on Yonge Street, almost in the Willowdale area on the west side of Yonge Street.

The total area of these is approximately 725 acres, and the trustees are, in consequence, one of the largest operators of cemeteries in the province.

The Committee may have some interest in knowing the names of the gentlemen who are trustees. I have filed with the Chairman, and it will be available to the Committee, the rules and regulations of the burying grounds.

The personnel of the committee is as follows:
The Chairman is Mr. D. MacKay McClelland, who is one of the best known chartered accountants in this city.

Vice-Chairman - Senior County Judge Ian MacDonell,
Committee includes:

Mr. H. L. Rous,

Mr. Alfred B. Ward, a well-known business man.

Group Captain F. H. Morani, who is head of the architects firm of Morani and Morris.

Mr. Hamilton Cassels, who is a lawyer, and

Mr. J. Harvey Weston, an engineer.

The trustees from the very beginning, both as an incorporated body and later by the terms of their statutes, have never operated for the purpose of private gain. They have no shareholders and pay no dividends. The trustees have always felt that the burial of the dead should not be made the basis of a commercial, and especially not of a profit sharing enterprise, and therefore they employ no sales agents, pay no commissions and permit no trafficking in their lots for speculation or profit. I think there are in existence three histories published of the activities of the trustees.

The trustees have a continuous record of public service with the sole object of trying to provide for the reverent disposal of the bodies of those who have died, and to ensure that their places of burial shall always be cared for and that they shall always be maintained in becoming beauty and dignity. The trustees cemeteries are operated solely for the benefit of the public. As a result, so far as benefits from our operations are concerned, we say with pride, but nevertheless it is a fair statement that our operations have been operated solely for the benefit of the public.

No profits have ever been or can be distributed, so that all money received has to be employed solely for administration and the benefit of the cemeteries under

their charge, or in meeting the needs of the city and vicinity for further burial space as population increases.

Our cemeteries are operated under the Perpetual Care Plan, and all lots now sold by the trustees are covered by this plan. For many years the trustees set aside 25% of the amount received from the sale of lots and graves to the Perpetual Care Fund. In 1948, as the result of experiences which were felt in all cemeteries, this percentage was raised to 50%, and it has been maintained at that figure until to-day.

So that to date, 50% of all money received from the sale of lots goes at once into the Perpetual Care Fund and that Fund is invested in bonds and other securities under our statutes. We have the power of investment of a loan and trust corporation, and within those limits the Board of Trustees itself maintains the investment policy for the Perpetual Care Fund.

The income from that Fund is available for the care of property, but it is not only available, it is earmarked and used only for the purpose of perpetual care.

The conditions which have recently arisen, we suggest, are due to the incorporation of a number of joint stock companies as cemetery operators. It is a new departure in Ontario, and these companies are apparently carried on, or intended to be carried on, as business

enterprises with the object of making money for those who run them.

Most of the cemeteries in this Province have previously been operated by boards of trustees, by municipal corporations or by religious bodies.

I do not intend to either repeat or endeavour to embellish what Doctor Berry said about the outline of the legislation which is in force today. I do emphasize that the Act itself and the regulations which have been passed under it, were intended to regulate cemeteries as they were understood in the older days. It is plain, if one studies those regulations, that they were designed to deal with the situation where there are small operators who are in the business of running cemeteries, and these regulations are too limited in scope and detail to adequately control the activities of such companies.

I indicated at the outset that the trustees were concerned about the situation. Other cemetery organizations, it has been indicated to us, are also concerned, but we feel above all that there is a matter of public interest, and it is particularly for that reason that we welcome the appointment of this Committee, because it has been a somewhat forgotten area of legislative function, and the focusing of a spotlight upon it is a good thing. I have endeavoured in this brief, along

with those who have worked with me, to point out some of the difficulties which seem to arise under the present legislation. This branch of our observations commences on page 3 of our brief, and as I have said these various items are not intended to be arranged in order of their importance, but as one comes across them in the Act, starting at the beginning and working towards the end.

There is a heading dealing with "Plans", which says that Regulations 2 to 6 relate to plans of cemeteries. These are so worded as to make it permissible for a plan to be prepared, in many cases, by persons who would not necessarily have the qualifications of an Ontario Land Surveyor. That might not apply to a large cemetery, but it could conceivably apply to a smaller cemetery.

They do not call for the same detailed information on the plans as is required in the case of sub-division plans registered under the Registry Act. We are not suggesting that all of the mechanics of a real property transaction should be made compulsory so far as cemeteries are concerned, but information which has been found in the past should be necessary to show lots and roads and other features of the layout of the cemetery with sufficient accuracy to enable a purchaser to find on the grounds, the lot which he is purchasing or in which he is interested.

It is questionable whether it is even obligatory for the plan to show the location of the cemetery in relation to other lands in the municipality.

It is quite within the bounds of possibility, indeed, probability, in some instances, that the location of the cemetery having regard to the municipality as a whole, is most undesirable, but that is not part of the information which is required at the present time as a matter of law.

What might be asked for by way of informal information is another question. As much as for the protection of the department and its officials as for the general public, the minimum requirements should be laid down in the law which can be pointed to, and not have to be worked out by the person who is trying to administer the Act and the regulations.

There is a requirement that plans shall be approved by the Minister of Health, but it is possible to interpret this provision in such a way as to make the approval of the first plan of the cemetery a sufficient compliance for the entire property.

That is to say, if I have a rectangular area and I lay out in lots only one-quarter of it and the rest of it is not laid out in lots at all, and I submit a plan which asks for approval of the entire area, the

regulation as it is drawn does not permit me, once I have my approval, to change those lots, but it does not require me to go back for approval for the other three-quarters which was simply laid out as an area with nothing more. I suggest this is something which requires consideration, that supplementary plans of an area within a given area should have to go back to the Minister in the same way as one must go back now if you are going to switch around what the Minister has already approved.

On this same point, Doctor Berry pointed out that when a certificate has been granted by the Minister with approval, no power can revoke it, and if he is misled, or circumstances have changed and cemetery lots improperly charted, the only way it can be remedied is by an act of the Legislature, which seems to be a cumbersome way to deal with revocation.

Under the heading "Supervision" - and this is a matter of policy which ought to be of great concern - the responsibility for supervising the activities of cemetery owners, in order to ensure compliance with the Act and Regulations, is vested in the local Boards of Health. The Local Boards of Health are of all kinds and descriptions, there are good ones and bad ones, big ones and little ones, and however suitable this arrange-

ment may have been when all or most of the cemeteries in the Province were operated as public services as mentioned above, the trustees feel it is quite unsuited to cemeteries conducted as business enterprises, and the trustees submit that the supervision of all cemeteries, however their operations may be carried on, should be exercised by the Department of Health or other Provincial authority.

You must have standards of some kind, obviously, but you do not have to have them all the same in all parts of the Province, but some degree of uniformity, and some simple organization whose job it is to lay down the standards and to see, within reason, they are maintained, should be set up.

It is obvious, of course, that sort of recommendation which would come from this Committee would require an additional staff, because the Department of Health is badly over-worked at the present time, and you would require adequate staff, because I suggest it is a job which will require a tremendous number of other regulations if it were handled by a central agency.

On the somewhat difficult question of "Approval of Regulations to Cemetery Owners" - and the Department officials know this as well as we do as cemetery operators - there is a "joker" in the Regulations as they exist at

the present time. The Regulations and the Act provide that the owner may make regulations, which, before you can put them into effect, must be approved by the Minister of Health.

What the Act does not say is that you must make regulations and accordingly if you choose to operate without any regulations at all -- and Doctor Berry indicated the other day that a surprising number of cemeteries had been operating that way -- you never need to go near the Minister with your regulations at all.

Our experience of well over a century is that you must have regulations. They are essential for a proper management of a cemetery, and it is essential also that the person buying a lot knows exactly where he stands, not only what he can and cannot do, but also that he has the protection afforded by regulations which say what can and cannot be done on the lot which has not yet been sold when he buys his.

Even if you do make regulations, and of course our cemetery has regulations and they are filed with the chairman, those regulations are not to go into effect until the Minister has approved them. But the Act does not say within what time limit you must apply.

The Act does not say that you cannot do this until so-and-so, or that you must apply to have your

regulations approved in one year or five years, or any other time. That is perhaps a small point but it indicates there is a substantial hole in the present regulations which must be filled.

There is no specific prohibition against operating a cemetery or selling lots before the approval of your regulations has been obtained. There is a regulation which says if you do make these regulations, they do not go into force until they are approved by the Minister, but those regulations may not affect the selling of the land or the layout of the cemetery.

Therefore our submission is that you get your approval of the cemetery as a cemetery in its complete detail before you do anything, and we are suggesting at this time that before the operations commence, before you start to sell lots, you must have regulations, and a central agency of the government must approve of them.

The next step I want to deal with -- and I hope I am not going too fast on this -- is the matter of the "Sale Prices and Care Charges". That is the charge made for various aspects of services through the cemetery.

Regulations 18, 19 and 20 relate to the sale prices of lots and to various care charges which are made by cemeteries. While it may be assumed that the intent of these regulations is to enable the Minister to control

these prices and charges, it is submitted that there is no sufficiently specific prohibition against selling for prices, or making charges, which have not been approved by the Minister.

Regulation 20 is one which concerns me in studying this problem. The actual approval, we suggest, should be given before any new prices are charged. Section 20 says something like that at the present time, but it does not make it too clear that you must ask for the approval of the Minister.

One of the difficult questions which the Committee is going to have to deal with and which has come up in other jurisdictions, particularly in the United States and a particularly new thing in this country, is the question of "Selling Methods".

We state as a fact, and the Committee will have the opportunity to make up its own mind on this, that the operation of cemeteries by companies who are doing it as a business enterprise, is resulting in aggressive selling campaigns, the effect of which is likely to be that large areas of land will be set aside as cemeteries, and lots will be sold therefrom, far in advance of actual need.

Under the present regulations there is little or no control over the persons who may sell lots, nor over the methods of sale which are used. It is submitted that

some attention should be given to the selling of lots in all cemeteries, certainly in all but the very small ones, and it should be under very strict control of some one having authority from the Legislature.

Further suggestions are made at the bottom of page 4 and over on page 5 of the brief, and I will note some of them.

First of all it is suggested that selling should be confined to regular employees of cemetery owners -- and I will come back to this because it deals with the question of how you pay these men. What we mean is that these men should be full-time workers for a particular cemetery. It is their occupation in life. Cemetery lots should not be sold by men who come in selling on straight commission, simply as salesmen, to cover a territory and are gone forever. This is not the way, in our suggestion to this Committee, that cemetery lots should be sold in this Province.

Secondly, we suggest -- and this may "shake" you at first until you stop to think about it a bit -- we suggest that cemetery employees who are selling lots should be licensed by the Province as salesmen.

You say, "What next?" If you are going to license cemetery lot salesmen, what next?

You could have this situation: you could have

a man who has been a stock salesman downtown and his license is cancelled by the Securities Commission, which puts him right out of business in this Province, and the next day that man can get a job selling cemetery lots in this Province and there is no one to say "No". I leave that suggestion with you as to what kind of control over that operation is required.

The next item "(c)" says that we should get agreements to purchase a lot to be selected later, or any similar arrangement with regard to an unidentified lot, should be prohibited.

May I paraphrase that by saying, a man should know what he is getting and should be able to go to the cemetery and find it and look at it, and he should be able to do that before he buys it, and after he buys it -- particularly when he buys it on the installment plan -- he should not have an agreement to select a lot then, or years later, when cemetery by-laws may have changed, that sort of thing should not be allowed.

You should know what you are getting.

Regulation 12 says something on this subject:

"12. Every owner shall at the time of every sale by him of a lot deliver to the purchaser thereof a deed or certificate showing (a) the name of the purchaser, (b) the location and

"area or dimensions of the lot purchased,
(c) the date of the purchase, and (d) the
amount of the sale price."

A great many of these lots, it seems to us, are being sold, or endeavoured to be sold on a kind of agreement for sale, and we question whether an agreement for sale where you are to get a deed at some future time, when you have made more payments, comes within that at all. I think it will be found that there are lots sold where the particular lot is to be picked out at some later time.

On that same subject, where the lot is to be selected later -- and I believe the Ontario Association of Cemeteries, which my friend Mr. Kelly represents, may have something to say about this -- we suggest that ought not to take place in a cemetery until it is a cemetery as we understand it. It should not be just a blocked out area on some plan on some wall in some office, but it should have boundaries and roads and trees, and look like a cemetery. The grading, for instance, should be done.

You should be able to look at the land and say to yourself, "This is what that man is trying to sell me." In other words, sales before cemeteries are fully developed as such ought not to be permitted.

At the top of page 5, section (d), we find that while sales in advance of need should be permitted if

desired by intending purchasers, promoted sales far in advance of need are undesirable, especially if they encourage speculation in cemetery lots by getting in "on the ground floor" and feeling the lots are going to be hard to get. It is therefore submitted that the promotion of sales by such means as house to house canvassing, telephone solicitation, small down payments and payment of salesmen by commission should be prohibited.

I am not against sales on the instalment plan, because that is the way business is done these days, but there should be a sufficient down payment to indicate this is a genuine transaction and not something which is entered into under the impetus of the initial sales talk, and then will fall through at some later date.

I mentioned already the payment of salesmen by commission. We say that the sale of the lot as such by cemetery operators on straight commission is a bad thing, because the object of the salesman is to make his living first, to sell as many lots as he can whether the people need the lots or not, whether they can afford to buy lots or not, and we think they should be sold by persons whose occupation is that of a full-time salesman working for a cemetery and whose livelihood is not dependent upon the number of lots he sells.

Those items are listed at the bottom of page 4 and the top of page 5, and subsection (d) dealing with house to house canvassing, telephone solicitation, small down payments and straight commission selling are all things which are associated with something which is to be sold by high pressure methods, and cemetery lots should not be allowed, in this Province, to be sold by methods of that kind.

I mentioned under the heading, "Increased Cost of Lots" -- and our plea rests here -- that if some controls along these lines are not introduced, cemetery lots are going to cost the people of this Province more money. It is not for me to say "too much money", because that is a matter of policy of how much is too much, but I say it is obviously going to cost more money.

We point out one instance of a company incorporated as a business enterprise is quoting \$110.00, plus \$16.50 for perpetual care, and that figure by the way is standard in this business enterprise, and that is 15% for perpetual care while our figure is 50%.

Their costs are \$110.00, plus \$16.50 for perpetual care, making a total of \$126.50, for a single grave space three feet by nine feet. We are selling in three cemeteries, Prospect, Pine Hills and York, that same grave for \$40.00.

It does not need any mathematical calculation to arrive at the conclusion that if you have a cemetery which is operated for the purpose of profit, you must sell at a higher price than a cemetery which is endeavouring to break even over the years, assuming that both cemeteries are properly run.

On the subject of "Care and Maintenance of Cemeteries", Regulation 26 (1), requires a cemetery owner to provide for the perpetual care and maintenance of the cemetery as a whole and Regulation 26(2), requires every owner to appropriate for this purpose "an amount equal to at least fifteen per centum of the sale price or ten cents for every square foot of surface area, whichever is the greater, of every cemetery lot sold by such owner". The trustees, and other owners of cemeteries which have been operated for many years, have found this 15% provision to be inadequate.

Doctor Berry made some comment on that the other day. We have found that 15% is too little, and a higher percentage is essential because of two well known facts. The first, is higher costs -- that is to say, increase in wages and maintenance costs. We deal with the union in our cemetery and we have a collective bargaining arrangement, and the things you buy have gone up in price.

Then the other half of that increased cost of carrying on is, of course, the thing that is hitting all of those on pension, and charitable institutions and religious institutions as well, and that is you get less money on your investment than you did when we were operating after the last War, and long before that as well.

Those two factors, less revenue from our invested money, as well as the higher costs of carrying on from day to day, make a higher percentage essential, and we regard 50% as essential nowadays.

In order to assist the Committee, we have made a suggestion in this brief that in the light of our experience, the minimum requirement to be used around the Province, 35% is not unrealistic. That is to say, 35% of the cost of the lot should be cut right off and put into a Perpetual Care Fund to stay there forever and which cannot be touched for any other purpose than perpetual care.

Inadequate provision for care and maintenance by one cemetery owner would be likely to result in a cemetery not being properly cared for, and also in the cemetery owners who have made adequate provision being at an unfair disadvantage in selling plots, as the provision for care and maintenance must necessarily be

reflected in the prices charged.

Now, a word about "Investment of Funds and Financial Statements".

Regulations 26 and 27 contain provisions respecting the investment of funds held by cemetery owners for maintenance purposes, the filing of annual statements with the Department of Health, and related matters. It is submitted that these regulations should be amended, and I will read our suggestions later on.

That is not really a Committee job except to consider the inspection of policy, and we say that with great respect.

These regulations need a wholesale check over and the requirements should be made more clear regarding the maintenance and care of cemeteries as a whole, as distinguished from maintenance of individual plots, monuments etcetera.

There are things about a cemetery which are not related to any particular lots at all, the area of the cemetery itself, the fencing, the keeping up of appropriate shubbery and so forth, those things which must be kept in proper condition in perpetuity. And people who have paid money expect a cemetery to keep it up, and this should be done if they are to be given a square deal.

We suggest the requirement respecting separate investment and accounting for funds held by cemetery owners for these and other purposes, should be made comparable.

Finally, we say that financial statements, in adequate detail as to their operations, should be filed with the Department annually by all cemetery owners.

The 1953 amendment to the Act, as I read it, applies only to those cemeteries which are operated for profit or gain, the business enterprises, but if it is essential that proper control be exercised as we say it is, then everybody should be required to file with the Provincial government each year a financial statement, showing how much money they have in their Perpetual Care Fund and what they have done with it during the past year, and what they have done with their other funds.

The brief indicates that there are two things accompanying it, actually there are probably three. The first is a copy of our financial statement for the year ending December 1952, which I have filed with you, Mr. Chairman. I do not propose to bore the members of the Committee by going through it and reading it at the present time, but we want the Committee to know what our position is.

Secondly, there is already filed with the Committee I believe by Doctor Berry, a pamphlet entitled "Cemetery Law", which relates to a recent revision of the New York State Law and which contains a great deal of recent information. The members of the Committee probably know now that in New York State they found it necessary not long ago, to make a very complete and thorough study of this entire situation, and as of 1953, they issued this pamphlet and they have been very gracious in providing us with information from their study.

I have obtained for the use of the Committee -- I do not propose to read this you will be glad to know -- copies of this pamphlet, and I do not suggest this is the thing to take with you to read on a short trip on the train, but if you want to make up your policy on Cemetery Law, this pamphlet shows the study that they have made, and I will leave a supply of this with the Secretary so it will be available to all members of the Committee.

The third document is already filed. I did not bring copies of it for all the members of the Committee. It is our Rules and Regulations which we have filed because we thought the Department members who are interested in the mechanics of the thing, would be interested in what our regulations would provide.

As I noted when I started first, we are not here

to review with the Committee all of the aspects of Cemetery Law and practice and procedure and policy. For example, you will realize that I have said nothing today about such subjects as were mentioned by Doctor Berry under the heading of "Cremation, Monuments, Taxation of Cemeteries", and then there was a long list of subjects given by Doctor Berry the other day which require, at his suggestion, some consideration by the Committee.

I have not tried to touch upon all of them by any means, because our feeling is this: There is first of all to be decided by this Committee the question of policy. We do not desire to interfere or to be brash enough to make any more than tentative suggestions to the Committee, in the light of our own experience, as to what are the subjects to be considered, and our experience along those lines.

When the Committee has made a decision as to policy -- and I say this to the Committee and to the Department officials -- we will be very glad to file a further written brief in detail as to any particular subject when the Committee decides it wants this, or that, or the other information.

Secondly, we are prepared to assist either the Committee or the Departmental officers with regulations which is a difficult task to deal with by a committee

whose prime function is to deal with policy.

We have had a great deal of experience with regulations and we are prepared to assist the Departmental officers or the Committee now, or later, because it is our desire with our many years of experience in this field to make available to the Committee, and through the Committee to the Province, our experience on the subject which we think is of great public concern.

THE CHAIRMAN: Thank you, Mr. Arnup. I am sure the Committee appreciates the care your Toronto General Burying Grounds have taken in preparing and presenting this brief.

I have two or three questions to ask you or Mr. Clark.

You mentioned about the plans for a survey of every cemetery, that every cemetery should have a survey before it is permitted to sell lots.

Of course you understand in the Province of Ontario, which is a very large province, there are a great many types of communities. Would you go so far as to suggest that in small rural communities, with perhaps a church or community cemetery -- if you have travelled through Northern Ontario, you have seen some of the small cemeteries -- I dare say they have scarcely any plan. Do you think it would be possible to have a hard and fast

rule to cover the entire province, or do you think there should be some difference made?

MR. ARNUP: I think it is clear if we are going to lay down a reform which is going to apply to city cemeteries in large centres, and it is going to work there, you must have some leeway in small places where conditions are different. I would suggest on the subject of "Plans", if a change is made, to give power to the Minister at his discretion to dispense with the filing of surveyor's plans in a particular instance. That is to say, in small communities, any cemetery board which is going to operate, even if they have only one hundred lots, they should have someone in that community draw a sketch of the cemetery. In circumstances of that kind, I quite agree that the Minister should have that discretion, to dispense with the survey, but it will be essential to have something upon which the lot can be identified.

THE CHAIRMAN: Another question I would like to ask you, you mentioned the amount of development. You said the Committee should consider the amount of development which would be necessary before sales of lots are permitted. Would you like to state the extent of the development that you feel there should be?

MR. ARNUP: In the first place, we suggest that all of the grading should be completed, that the

fencing should be completed, that the plans should be completed and you should have a recognizable cemetery as such, and not simply one hundred acres of land in the same condition in which it was bought which you say is the cemetery. One minute it is a farm and the next, it is a cemetery.

We are not saying all the ornamental shrubbery should be done, or all of the road building should be done, but certainly there should be some minimum requirements as to some laying out of roads within that perimeter. You must have your perimeter, your grading and your roads laid out. I would like to speak to Mr. Clark as to whether his ideas carry further than that.

Perhaps the Committee would like to hear Mr. Clark's own opinion on this.

MR. THOMAS (Ontario): Would you tell us how your trustees are appointed?

MR. ARNUP: The regulations, Mr. Kelly is kind enough to tell me, provide for a meeting of plot owners to elect trustees.

MR. THOMAS (Ontario): Do the trustees receive any remuneration?

MR. ARNUP: There is some remuneration. It is very modest in extent. Mr. McClelland, who is the present Chairman, was formerly the President of Clark and

Weatherhouse, and I would suggest that if his expenses are met, he would consider himself well paid for the job.

I will give the Committee a written statement, if you would like to have it, as to remuneration received.

THE CHAIRMAN: We will ask you for it if we want it.

MR. CLARK: Mr. Chairman and gentlemen, our practice is in regard to plans that the ground is to be graded, drained, planted and staked. We call in an Ontario Land Surveyor, who checks our statements and our plans.

Any lot many be located in any of the Toronto General Burying Cemeteries by an Ontario Land Surveyor at any time. Does that answer your question?

THE CHAIRMAN: No. I do not think that was the thought of the question.

The question is this: This of course may never happen, but supposing an individual decided he would go into the cemetery business. He purchases land. He has it surveyed and he goes out to sell land.

The thought in my mind was this: I know one of the problems of this Committee is going to be neglected cemeteries, and I am certain that everyone here will agree that it will be one of the efforts of this Committee to endeavour to cut to a minimum -- I know it will not be

done away with -- but to cut to a minimum the possibility of neglected cemeteries.

The question I had in my mind, and the answer I was endeavouring to get was, that supposing an individual were to purchase land, decides to make a cemetery of it, does the planting, makes the roads, and has it surveyed and all that sort of thing as you suggest, but he only sells a few lots and then puts aside the amount which is a percentage of the sale price for perpetual care.

What certainty is there that he will ever sell any other lots to create a fund which will grow with that cemetery in perpetuity? The person who buys the first plot in that cemetery must have some assurance that it is going to be cared for, that there is going to be a perpetual care fund to keep it up.

MR. CLARK: Definitely, yes. The State of New York makes provision that no one can start a cemetery until they deposit \$25,000., as a guarantee of a perpetual care fund, and that fund must run up to \$100,000., before they can draw from that fund.

In regard to the small cemeteries throughout the country, I do not think it is necessary to have an Ontario Land Surveyor for them. The marks are there. But where a cemetery is started up and operated for profit there should be a proper plan so that the man knows where his

lot is, I think.

THE CHAIRMAN: Thank you very much.

I notice in your Regulations, and I ask this as a matter of interest, that you have in your Regulations a provision whereby if a monument falls into disrepair, you can take away that monument from the cemetery.

You do not say what you do with it, but you take it away. If you do take it away, what is the reaction of the person who is responsible for that monument when they find it has been moved?

MR. CLARK: We have considerable of that, especially in Toronto, and what we do in those cases is this. We try to find the owners of the lot and inform them, in order to persuade them to put it in proper condition. If it is in a dangerous condition, we do not wait for them, we take it down and bury it in the plot showing the inscription as far as we can, level with the ground.

THE CHAIRMAN: Have you had an objection to that?

MR. CLARK: No, because it is very seldom that we can find anyone who will take the responsibility of repairing that monument.

THE CHAIRMAN: You will not be able to give us any information about abandoned cemeteries, because you

have had no experience with abandoned cemeteries.

MR. CLARK: No.

THE CHAIRMAN: Do any members of the Committee care to ask any questions at this point?

MR. LYONS: What is the number of burials in all of the cemeteries together in one year?

MR. CLARK: Five thousand, three hundred and forty-three last year.

MR. LYONS: Most of those, I presume, would have to buy lots immediately. Can you tell us what percentage of them would have to buy lots immediately?

MR. CLARK: In the Toronto General Burying Grounds we make provision for all classes of people. We have graves for indigents, we have the free graves, and we have the preferred single. We have two and three and four grave plots, and so on down, according to the number of graves required. I cannot tell you how many lots there were sold, but I can tell you this that the number interred in common graves for indigents and still-born infants was $12\frac{1}{2}\%$ of that number.

THE CHAIRMAN: Could I ask you one further question? Do you look after the expenses of the burial of the indigent patients? I suppose the City pays you for the opening of the grave?

MR. CLARK: They pay \$5.00 for a child and

\$10.00 for an adult.

THE CHAIRMAN: Do you furnish the grave?

MR. CLARK: Yes.

THE CHAIRMAN: And you look after them?

MR. CLARK: Yes, and take care of the interment, sir.

THE CHAIRMAN: You take care of the plot?

MR. CLARK: If you go through the cemeteries you cannot tell where those plots are. They are kept the same as the rest.

MR. WILSON A. STEWART (Kingston): May I ask a question? How about the records of the people who have died? Do you actually keep those records?

THE CHAIRMAN: Mr. Stewart of Kingston is asking you this question, Mr. Clark.

MR. CLARK: We keep a complete record of all interments in the cemetery.

I have some figures which have been handed to me by the Secretary of our Association as regards the number of plots. In 1952, we sold 809 two-grave plots, 21 three-grave plots, 89 four-grave plots, 6 five-grave plots, 41 six-grave plots and 13 lots over six graves.

THE CHAIRMAN: Thank you very much.

MR. CLARK: There is one other thing in which you might be interested, and that is the number of veterans graves. There were 129 veterans in the Veterans' Plot last

year and 109 interred in the Warriors' Plot.

THE CHAIRMAN: Thank you very much, gentlemen.

We are going to receive the brief of the Memorial Gardens. If it is agreeable to the Committee we will adjourn for five minutes and then proceed with the meeting.

---- Whereupon a short recess was held.

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---- Upon resuming.

THE CHAIRMAN: Gentlemen, I believe the Memorial Gardens have prepared a brief to present to this Committee, and Mr. Sedgwick will speak for them.

MR. SEDGWICK, Q.C.: I had understood that we would follow my friend Mr. Arnup, or whoever presented the argument for the Toronto General Burying Grounds, but I find Mr. Kelly is here and he, I am told, is representing the Ontario Cemeteries Association.

Of course this is a Legislative Committee and there are no parties in the true sense. Everybody comes and says their piece and is dismissed. I feel, however, that my clients may be in a sense defendants in these proceedings. I do not suggest that they are defendants in any technical sense, but I do suggest that they are defendants in the sense that they may very well be on the defensive in that the brief presented by Mr. Arnup makes

some attack on all cemeteries operated for profit or gain, or at least makes a number of suggestions as to how they might do business.

I have some reason for thinking Mr. Kelly's presentation will follow similar lines. I am sure the Committee does not want a succession of appearances, but I would like to deal not only with my own brief but also in a perfunctory way with what has been said by Mr. Arnup and what might be said by Mr. Kelly.

I think it might be well if Mr. Kelly, whose line is very similar to Mr. Arnup's, were to make his presentation first and permit me to follow so that I may deal with any points he does make.

THE CHAIRMAN: That will make no difference to the Committee. There are a number of persons who have come here from quite a distance, and without the thought of crowding anyone or hurrying anyone I think we would like to keep in mind the possibility of perhaps three-quarters of an hour, or an hour, at the close of the afternoon to listen to private individuals who are here. How long will you be, Mr. Kelly?

MR. KELLY: Only about one-half of the time Mr. Arnup took. I was informed we would be here this afternoon and while I am here, a number of the Association have in mind that their brief will be heard this afternoon

and they are not all here now. While I am prepared to go ahead, I do not know how they would feel.

THE CHAIRMAN: I wonder how this would appeal to the Committee, if the persons who wish to be heard individually were heard now and the brief presented later? Is that agreeable?

(Concurred in.)

THE CHAIRMAN: We will hear you immediately after lunch, and we can hear Mr. Sedgwick afterwards.

I might say to those individuals who are here, I notice that we have Doctor Carefoot from Sandwich Street, Windsor and Mr. Stewart from Kingston. Is Doctor Carefoot here now? We will hear you now, Doctor.

DOCTOR CAREFOOT: I would prefer not to speak just now, if at all. I am mostly interested in what you are going to say in connection with abandoned cemeteries as I happened to notice that was a part of the program, but I have not very much to say myself. I am mostly interested in hearing what was being said and I am very pleased that you are going ahead with this committee on this question, because it is a matter of great importance.

THE CHAIRMAN: We recognize abandoned cemeteries as a problem, and I do not think any on the Committee have a solution to the problem yet, so that if you have anything which will help them, even if you wrote a letter,

we would very much appreciate it.

DOCTOR CAREFOOT: I would prefer to say a few words at a later hour with your permission.

THE CHAIRMAN: We will be hearing more about this to-morrow. We will hear Mr. Wilson M. Stewart, representing the Ontario Cemetery and Genealogical Association.

MR. STEWART: My name is Wilson Mathew Stewart and my home is down in Kingston, Ontario. Primarily, our Association started in genealogical work. We were quite interested in cemetery records, in burial books, in church records and things like that. We were interested in archive records and different things of genealogical value.

Three years ago, we started our Association, and a sufficient number of people came to us at that time to inquire about abandoned cemeteries that we felt there was a great interest in this work. In our travels around the cemeteries, reading inscriptions and so on, we came across some very bad, obsolete ones.

I would go so far as to say that there were about 75% of all cemeteries in our part of the country, and probably in Ontario, that are in this condition. Some of these cemeteries contain from about 50 people up to as many as 1,000 or 2,000.

At first we were going to put our organization as a corporation without share capital under the laws of the Provincial Secretary of Ontario, and through the Cemeteries Act as well. When we went into these different cemeteries, the people were interested in what the Ontario Government intended doing about it, what the different townships intended doing, and the way I see it someone should go in there and clean up these cemeteries but the people always expect someone else to do it, and it was through the effect of this subject that we tried to get our organization started.

At present, we have 168 life members and approximately 300 yearly members in the Association. Our life membership is a very small nominal membership, it is only \$5.00, and our yearly membership is \$1.00. If they pay for ten years that entitles them to a life membership in the association. The object of the Association was to get it started, to get a marker for every grave and perpetual care for every cemetery and strengthen family ties.

At first we were only interested in the genealogical angle, gathering genealogical information but then these people came to us to see what we would do regarding the cemeteries and we decided we would go in under that set-up and take over or try to help them take over a certain cemetery from the point of "trustee".

Some of the cemeteries had trustees at one time but it became a very one-sided trustee affair with one man wielding the whip. Some of the people used to go in there on cemetery "bee's" to clean up the cemetery, but after two or three generations they scattered to different parts of the world.

Our organization has tried to overcome that and to try to find out what should be done concerning it. We took our membership and went to these people who had their families buried there and said to them, "If you and all your ancestors, say seven generations of these people, were to come along and support the cemetery, we could get 60, or 70, or 100 members for this one particular cemetery, and we would have a large group to start our association." The money which we get from these memberships would go into a trust fund. We have two (2) bonds now, and the interest on this money is to be used on the cemetery.

If we put up \$10.00 in one particular cemetery we expect the township to put up the same amount, so that we can keep the weeds down, keep the cemetery cleaned up and have it completely done once a year.

If other people are interested in supporting and cleaning up their own grave area, that is up to the cemetery trustees.

We are even trying to get certain trustees to go

there to get the cemeteries cleaned up, but sometimes it does happen as in the case of one particular cemetery where we do not seem to be getting the co-operation we would like to get. Consequently, when we asked them for help, they decided they would not do anything about it at that time. On this particular cemetery we had \$17.00 to spend on getting the cemetery cleaned up, but because of certain aspects of the thing, they did not want to have anything to do with it, because one particular man thinks he has the only way of doing it. He has the key to the cemetery and he and another man are the only ones objecting to it.

At that particular cemetery we are having a little bit of trouble. We tried to have a meeting of the people to get the cemetery cleaned up, because we thought if we could get that cemetery working in our plan, the entire program would go over and, consequently, when we went to the township involved, they did not have anything to do with it. I do not know their reasons for refusing to help because, as I said before, the money was there. We expected to go in there and clean up that one particular cemetery with their help, but they would not advance us the money, so that we could go in and spend a week cleaning it up. Consequently, the thing has been more or less "idle" since that time.

Later on while we were doing that work, we went to different people who had relations buried in that particular cemetery and we got approximately 20 names on a sheet of paper whom we contacted to try and arrange a meeting, but only about four attended for some reason. Consequently, these people have more or less given us permission that at some time we can go in and clean up this cemetery. That is about the size of it.

Primarily, we are interested in the genealogical things. From 1867 on most of the burials, deaths and marriages have been recorded here, but there were a great many not recorded up until 1897, until certain mortise was put into effect and some people were fined. Between 1867 and 1897, there was a great deal of neglect as far as registering burials, deaths and marriages.

We help people to prove their age and registration. Before that time, there appears to be no records, no very concise record. There are a few land grants in the archives and in some of the Registry Houses in the district but before 1867, the only complete up-to-date records which we could actually get were from the old cemeteries.

Inasmuch as we are a small Association, we only have a certain amount of money coming in every year to carry out our work, and it is through this work that we keep advancing our aims and so on.

Down through the St. Lawrence area when the waterway goes through, we believe -- in fact from what we can gather there are going to be -- approximately eight cemeteries down there which will be flooded. We are not interested in where these people are moved. I think it is foolish to move these people once they are buried, but we would like to try to keep the records and, if possible, we believe the Ontario Government should go ahead and chart these different cemeteries to find out who is buried in them. This information would be useful both for statistical records and for the benefit of those who might want to trace their ancestry.

We are a small Association in that regard and we do not have the necessary capital to employ a person full time to go in and get these records.

THE CHAIRMAN: I think, perhaps, Mr. Stewart I should put you right as far as that is concerned. This Committee cannot consider all of the points you have mentioned. It is not part of the duty of this Committee to consider the records of the names or anything of that sort. This Committee only has to do with the cemetery, and although we certainly appreciate your interest in your work and would like to encourage you if we can, I think perhaps you could help the Committee most if you would, from your experience with these neglected cemeteries,

endeavour to gather your experience together in the form of a letter and send it to the Committee. Do you think you could do that? Although we realize what you are interested in, the Committee has a line of work outlined for it and that is not included.

MR. STEWART: I was hoping maybe they could combine the two of them together.

THE CHAIRMAN: No, the directive which we have from the Legislature is what we must follow.

MR. STEWART: In getting back to cemeteries, we believe that if an investigator was to be sent to these different cemeteries to make a report on this, it would be helpful.

THE CHAIRMAN: Would you accumulate those facts and send them to us in concrete form? Would it be too much trouble to do that?

MR. STEWART: That is quite a bit of trouble because you can only do so much. It takes a long time to make a report even of one cemetery.

THE CHAIRMAN: What I was suggesting was that you make an over-all recommendation from the experience you have had. I do not want to put words in the mouth of this Committee, because the Committee has not met to discuss the reports which they have received, but there is no doubt that abandoned cemeteries will be of great interest to this

Committee. A great many persons are going to be disappointed with the report of this Committee so far as abandoned cemeteries are concerned, because of the impossibility of doing what a great many people would like to do. Therefore, some concrete recommendations based on your experience, would be most helpful. Thank you very much.

Is there anybody who would like to speak now to the Committee?

MR. F. H. COOKE: I am Secretary-Treasurer of The Guelph Cemetery Commission and I have prepared a brief for the consideration of this Committee, which I have much pleasure in reading at this time.

"To the Select Legislative Committee on
The Cemeteries Act and Related Matters on
the Provincial Legislature of Ontario:

James N. Allan, M.P.P. Chairman -

Mr. Chairman and Gentlemen:

Your letter addressed to Miss Tovell, City Clerk, Guelph, has been referred by the Municipal Council to The Guelph Cemetery Commission for reply.

We are pleased to have the opportunity of expressing our views to your Committee and submit the following.

The Guelph Cemetery Commission was incorporated in the year 1919, to administer the Woodlawn Cemetery

"of Guelph, which is now one hundred years old.

The Commission receives a grant of \$2,000. per annum from the municipality, but is otherwise entirely dependent on revenue earned from the sale of grave space and services for its very existence.

In the year 1919, a substantial amount of money was donated by a private and extremely generous citizen in order to clean up and beautify the Cemetery, providing that a responsible board consisting of appointees from Church, City and Township take over the management and operation of the Cemetery.

This was done and for 34 years our Cemetery has developed humanizing and elevating influences in beautiful trees, shrubs and flowers, natural scenery and monumental art. We have tended to improve our circumstances and are jealously guarding our heritage and our responsibilities to posterity.

Of recent years, we have had difficulties in financing our operations and have had to make pleas for increased grants, and have sought permission to increase our fees for lots and services owing to the substantial increase in costs of operations.

In spite of our success and the standard of excellence we have maintained, we are reliably informed that many hundreds of sales have been made

"in this district of plots and graves in a newly formed Cemetery operated for profit. The sales have been sparked by concentrated sales efforts by experts of the art which have broken down sales resistance. We cannot ignore the implications and we have given much thought to our future. We have fallen heir to thousands of graves and tombstones, for many of which no Perpetual Care has been provided, and many more of which the Care provided is inadequate.

We can carry on, providing that our normal sales continue. If we are to be deprived of sales, our Cemetery will deteriorate. The increased cost of labour, coupled with the reduced earning power, has made our position difficult and critical, and even a small decrease in revenue could make us insolvent.

With this background, we are indeed pleased to note that the Ontario Government, true to its responsibilities, is about to give some consideration to the cemetery problem.

It is revolting to our Canadian and Christian way of life that foreign operators have been permitted to enter the cemetery field of business for the sole purpose of financial exploitation and private gain.

" Municipal boards and church governing bodies have been given the job of maintaining old established Cemeteries with an heritage of maintenance without revenue. Present incomes must pay not only for the present but for the past and the future. We feel the interests of established Cemeteries operating under these handicaps should override the avid exploiters who have invaded Ontario for the sole purpose of making quick and easy money and then getting out.

We would respectfully ask why these outside companies should have been granted charters to operate in Ontario, and why they were allowed to sell their plots at such high prices in view of the fact that no past Care had to be provided as is the case with older Cemeteries such as ours? The evil harvest from the operations of these commercial cemeteries has not arrived, for these operators sell on a pre-need plan to both young and old, many in the former class. The older cemeteries are thus in the future going to be denied the revenues which would normally come to them.

Frankly, Gentlemen, the old time cemeteries need your protection and the operatives of the profit seeking cemeteries must be discriminated against in

"favour of the non-profit cemeteries.

The principle of restrictive operations is not new in Ontario, e.g. Hydro, Transportation, Liquor Sales, etc.

We are firmly of the opinion that all cemeteries be under the control of Municipal or Church boards which are operated on a non-profit basis.

We would recommend specifically:

1. That canvassing, advertising and promotion of sales of graves and plots for profit be made illegal.
2. That no more charters be permitted to be issued in Ontario for profit seeking Cemeteries.
3. That in order to protect the Municipalities in which profit seeking cemeteries exist and operate, that 50% of the full purchase price of the plot or grave be placed in a Perpetual Care Fund, and deposited in a trust fund operated by an independent Trust Company.
4. That distribution of profits be restricted to no more than five per cent (5%) of the invested capital.
5. That detailed Annual Financial Statements be required to be submitted to the responsible ministry.
6. That privately owned cemeteries operating for profit be subject to municipal taxes.

"7. That privately owned Cemeteries operating for profit be compelled to deposit with a responsible corporation \$25,000. for each 10 acres of land appropriated for cemetery use. This is to guarantee the municipality against the possible cessation of interest due to insolvency or lack of financial gain in continued management. It would appear that where campaigns of sales in advance of need are made by these companies that some protection should be given to the municipalities who, in the final analysis, are forced to assume the responsibility of maintenance. Some evidence of continuance of entity should be assured and no encouragement given to those who would make quick sales and then depart from the scene which our present laws encourage.

8. That the present Cemeteries Act and all other amendments thereto which may be made from time to time be strictly enforced. If necessary, a small fee could be assessed against every interment with a view of providing funds for the proper enforcement of the Ontario Statutes. It might also be possible that funds from this source could be used to maintain old abandoned cemeteries in this Province.

Finally, may we reiterate our faith in the Provincial Legislature to protect the hallowed resting

"place of past generations. There is nothing so distinctive of the condition and character of a people as the method in which they treat the dead.

Respectfully submitted on behalf of The Guelph Cemetery Commission.

F. H. Cooke,
Secretary-Treasurer."

THE CHAIRMAN: Thank you, Mr. Cooke. I would like to ask you from your experience in Guelph, a question which I am very sure is going to require the attention of this Committee before we are finished. This question concerns the very thing you have mentioned, that a great part of the cemetery is without Perpetual Care, that is the lots were sold before the Perpetual Care was a regular thing and I am wondering what your view is, as to whether or not the municipality should endeavour to assume some responsibility so far as that is concerned, or whether it should be cared for in your business operation of the cemetery.

MR. COOKE: My opinion is that it should be done by the management of the cemeteries. When the lots are bought, the Perpetual Care Fund must look after the needs of the future. I do not believe we should be burdening the government or any municipality with our operations. Otherwise, everyone would be having a burial

for which they are not paying, in other words they would have an indigent funeral.

My opinion is that we should have a sufficient fee to look after this and to take into consideration the trend which seems to be going upward with regard to, say, costs of labour, and we should be assured there is going to be no competition enter our particular geographical location. We have lots which we must look after for one hundred years in the future.

THE CHAIRMAN: What has been your experience with re-sale of lots? Have you re-sold some of these lots which do not have Perpetual Care?

MR. COOKE: In 1950, we made an application to the local court for repossession for which no interment had been made for 20 years, and for which no fees had been paid for over 5 years, and we repossessed about 250 plots. We received an order from the Judge and from that we repossessed these lots. Many of these people had completely disappeared.

THE CHAIRMAN: Was that lots or grave spaces?

MR. COOKE: Lots are grave spaces.

THE CHAIRMAN: In your cemetery?

MR. COOKE: Yes. When I say 200, or 300 plots, that would amount to not more than three graves to a lot. The family had died out, or had moved away, and the space

was completely wasted and no revenue was coming in, so they were repossessed. We have had no complaints whatsoever.

I think of the 250, three people came forward and acknowledged that this was their family and paid cash.

THE CHAIRMAN: You had no difficulty?

MR. COOKE: No, we had no difficulty whatsoever.

THE CHAIRMAN: You have been how long in the cemetery business?

MR. COOKE: Since 1946. I am a newcomer, but I dropped into it when there were a great many problems appearing on the horizon.

THE CHAIRMAN: Would you have an opinion as to the thinking of persons generally regarding the moving of graves? What do you think? Do you think this Committee could work out a plan whereby a cemetery might be moved. We heard this mentioned this morning about the St. Lawrence Waterway, sometimes a highway must go through and the cemetery must be moved. What is your opinion as to that?

MR. COOKE: That is inevitable. I think one of the members of the legal department of Toronto, in addressing our Association, told us that although we talked quite sincerely about Perpetual Care, there is no such thing as anything going on in perpetuity. There is a limit as to what might reasonably be expected in the

duration a condition might exist. We can see, for instance, in Toronto, places which were set out as cemeteries owing to the progress of time have had to be moved. I think at one time there was a cemetery in the region of Eaton's College Street Store, but I would not be sure.

However, it would be impractical if a cemetery were in existence in a very vulnerable portion of any municipality. We had one in Guelph in the centre of the city. The cemetery was built around the church and the church was in the centre of the city which grew around it, and as the city grew larger the cemetery had to be moved away.

THE CHAIRMAN: Did you experience much difficulty in the moving?

MR. COOKE: It was not in my time, but I understand there was no difficulty. The bodies were moved as far as they could be and I must be frank about this, occasionally bodies appear during an excavation for a sewer, and are removed decently and reinterred in the cemetery.

I think, once about three years ago in a sewer excavation in that area, a body was discovered and we realized that the area was at one time a cemetery. It is unfortunate, but I suppose at that time cemeteries were placed inside the municipalities and the municipalities

have grown up around them.

THE CHAIRMAN: Do you think in relation to the growth of the Province and the municipality, the Committee should endeavour to establish some means of moving these old cemeteries where it is found to be absolute necessary?

MR. COOKE: I do not think you could hinder the march of progress. I think in one hundred years' time there will certainly be different conditions than those we know now, and they will have to be removed. That is my opinion.

MR. ROOT: Out in the rural municipalities, where we have several instances where the churches have been torn down, where congregations have united and the people left the church or moved away, they are abandoned cemeteries, and I would like to know your opinion regarding them. You mentioned you had a Cemetery Board to take care of funerals and so on.

MR. COOKE: We have an application from the township, or from some interested persons in a nearby township where the cemetery, which was a small private cemetery, was on a man's farm land and he wanted to get rid of it. They made application to the Cemetery Board to have the bodies removed and placed in our cemetery. They made a cairn out of the monuments and it is simply beautiful. They were old pioneers of the township.

It is amazing how fast the old families seem to be dying out, and you can find no relatives of these people buried in that particular place who are alive or interested. Of course we provided that the township get permission from the Department of Health in Toronto, and we said if they did we would have no objection to putting these graves in. We felt it was a service we would welcome.

THE CHAIRMAN: You have not found that the historical societies have objected to such a change as the one you have just mentioned?

MR. COOKE: Not to my knowledge.

THE CHAIRMAN: Not when it is properly done?

MR. COOKE: No.

THE CHAIRMAN: Mr. Cooke, I want to express the thanks of the Committee to you for presenting your brief and to assure you that it will receive consideration.

MR. COOKE: I am glad to be able to lay a brief before the Committee.

THE CHAIRMAN: Were there any other individuals who would like to appear before the Committee today?

DOCTOR CAREFOOT: Having heard the last two speakers, and in view of the fact that you have made a distinction between what you intend to do regarding records for genealogical purposes and for burial purposes,

which I take it is your main interest now, I would like to say a few words. I realize your problems, however, I believe you are also interested in the past.

THE CHAIRMAN: That is right.

DOCTOR CAREFOOT: And of course the point that struck me, and upon which I would like to say a few words is how much your committee intends to be interested in the Abandoned Cemeteries.

It has been my experience in the last few years, not from any profit idea or anything of that nature, but just as a matter of interest, of trying to establish my own family history and so on, to examine cemeteries near home and in distant places, but of course that is getting into a feature in which you will probably not be interested.

In examining those cemeteries, and the tombstones for the purposes of records, I also ran across other features in which I believe you would be interested.

A few years ago there was an amendment and some new regulations passed. I happened to be at that time a member of the municipal council and, although I did not know very much about the main features of that, there was very good work done by these regulations. At that particular time the regulations required, I believe, some municipalities to accept responsibility for these old cemeteries and it is about that about which I wish to

speak.

I happened to be interested in some of the cemeteries in Peel County and I just happened to run across a former warden who had been interested in the cemeteries in connection with those regulations which were passed at that time.

It was his impression that he should look over the cemeteries in, say, Peel County. I do not know how far he did go, but he was instructed by the County Council to examine some of the cemeteries which I did with him later on.

The point I wish to make is: Are you going to be sufficiently interested in these Abandoned Cemeteries? I was speaking to a chap yesterday, telling him I was coming up here and he said, "Of course the Legislature will be interested just to the extent of whether there will be taxes involved in it or not." They will not be interested if they are going to have to pay taxes.

If you are not going to be interested in reclaiming any of these cemeteries by the county or municipal councils, I do not know if we can say much about it. Some of these cemeteries have no board that I could find, and in connection with this particular warden I spoke of earlier, before I get away from that completely, he did get the different cemetery people interested in the cemeteries at the

time in levelling these cemeteries.

I think this was a poor feature. It was done -- maybe you will do this, I do not know, you have not issued your report yet, but I thought I would mention this so you would keep this feature in mind -- they had gone to the cemeteries where many of the pioneers were buried and if they found a stone lying over this way (indicating) or lying on the ground, naturally, they expected people who were interested in that stone to put it up again. Perhaps the people who would be interested had moved away and they could find nobody who was interested, so they took these stones and laid them down on the ground and covered them over.

Has the world come to the point where people do things like that? Has the world come to the point where we are not interested in that feature? I do not think you can get away with just looking after the thing from a certain point of view and not including the records. I do not believe you can deal with this question adequately without having something to do with regards the keeping of records of the future.

THE CHAIRMAN: I might have been misunderstood. I do not think there is any doubt as to their being interested in the records of the burials which are being made now.

DOCTOR CAREFOOT: But not the past?

THE CHAIRMAN: Whether we should have been, or whether we should not have been, we were not commissioned to go into that and we must follow the directive which was given us.

DOCTOR CAREFOOT: As you go about the country, you run across many small churches. It is my estimation that very many of the small churches in the near future will be closed also, and if there is a small cemetery connected with this church it will be closed as well.

Maybe some of you belong to some of those small churches, but nevertheless the near future will bring about a condition in which those churches will likely close.

THE CHAIRMAN: Would it be a help to you, and perhaps to some of the others who are here, if I just interrupted you for a minute and asked Doctor Berry to recite the present regulations as they have to do with this?

I happen to have my own Father buried in one of these small church cemeteries, and under the present Act the municipality has taken over that cemetery and is caring for it. That was covered by the legislation passed by the Legislature and whether we go farther than what has been covered by that legislation, I have no idea. I

thought if Doctor Berry would refresh us again on that legislation, it would give us all an understanding of what the regulations are at the present time.

DOCTOR CAREFOOT: I am sure those regulations are not being followed in a good many places.

THE CHAIRMAN: They were not compulsory regulations, as I remember them.

DOCTOR BERRY: According to the Regulations, where there is no owner who is known, or is able to look after the cemetery -- and this would apply to many of the church grounds you speak of -- it becomes an obligation of the municipality to assume ownership and to maintain the grounds.

DOCTOR CAREFOOT: I take it that all that would be necessary would be for some person to make a representation to the village or township involved?

DOCTOR BERRY: The municipality in which the cemetery is situation, yes.

DOCTOR CAREFOOT: That is very important, because there are a number of cemeteries not far from here, and throughout Ontario, which under that regulation surely will need to have something done about them.

The gentleman who was speaking here this morning made passing mention with regard to better regulations stipulating just how that ought to be done, and I was

interested in the records in a particular cemetery, and when I came to look at the records and ask them for the records, they said they had a map of the cemetery and they had marked the graves.

Well, on looking over the ground in the cemetery you could not see the graves, because they had levelled the ground. Very many of these cemeteries contain graves which have been covered over, as you probably have heard, where trees have grown over them. Sometimes the stones have fallen down, and the custom seems to have been to level it all off the way it should have been before they were put in there in the first place. I could not find, in any of these instances, where anybody who had been capable of making a record had drawn a plan of the cemetery and was able to point to it and say, "Here lies John Jones and there is Mrs. Jones." I am quite sure nobody could find these graves.

THE CHAIRMAN: I notice that you did not like the idea of placing the stones down on the graves, as is done in a Toronto burying grounds.

DOCTOR CAREFOOT: Especially covering them up.

THE CHAIRMAN: They will likely get covered up in the course of events. They may or may not, we cannot say. What would be your attitude toward the placing of these headstones in a cement wall at one end of the

cemetery? They would not be on the grave at all, but there would be a record.

DOCTOR CAREFOOT: If there was a record which had been made by a competent person --

THE CHAIRMAN: The stone could be erected and placed in a wall. They do some great things in Scotland, and I know when I was over there a number of their cemeteries were that way. The stones had all been removed from the centre of the cemetery and are in a wall at one side, or across the end whatever is necessary. They are placed in cement there and are preserved permanently.

DOCTOR CAREFOOT: Were the proper plans made of the cemetery, I would be very much in favour of what you are saying. I think it would be probably the only solution that you would be able to find, and it would be a good solution as well. As time goes on things pass away, but they would be more permanent, I believe, if you did something like that and I think it would help a great many of these cemeteries.

THE CHAIRMAN: Thank you very much, Doctor Carefoot.

MR. E. C. FRANSCOMBE: I am from Toronto, just an individual, but I would like to say a few words to the Committee. I am concerned with Park Lawn Cemetery and we in turn are buying, or have bought, a bond. This bond

includes extra special Perpetual Care for all time.

In the case of the gentleman from Guelph, speaking of the removal of portions of the cemetery, and especially Park Lawn which is one of the finest cemeteries in the Province, what becomes of that bond money after a period of time when we expect to continue it for all time?

THE CHAIRMAN: I wonder if there is a misunderstanding? I do not think there was any thought of removing any portion of a cemetery which is being kept up and maintained properly, especially a cemetery the size of Park Lawn. I think the mentioning of the disinterring of the bodies had to do with plots in, perhaps, a small cemetery which was situated where a highway had to be put through. Personally, I know I had no thought of that applying to any cemetery of any size, and certainly not to a cemetery which is being looked after and has permanent upkeep.

MR. BRANSCOMBE: That is the question being asked by several people who have paid money for a bond, the interest of which will take care of that plot for all time, and give it extra special care -- it is not "special care", it is "extra special care."

Another point I would like to mention was brought up some time ago when Bloor Street was widened. As you know, the Bloor fence runs around there a considerable distance and it was thought in the future there is a

possibility that Bloor Street will be widened. In that case, Park Lawn Cemetery is going to be disrupted in that section.

Our plots come from the pathway, the burials are lengthwise from the fence, and go from there down lengthwise. We have four areas of plots doubled.

If Bloor Street is widened at any time, what is going to happen to those, and where is our Perpetual Care, and where is our bond money going?

We may be gone long before that, but that is the question I had in my mind.

THE CHAIRMAN: I do not know, of course, what this Committee is going to do, but knowing human nature, and knowing the members of this Committee, I would suggest the one thing they are going to be particularly careful about is to do everything possible they can do to maintain the decency of burial. I should not say this because I have no idea of what will be contained in our report, but a reasonable thing which crosses my mind at the present time is, if a grave must be moved and a body disinterred and placed in another part of the cemetery, the permanent upkeep will be transferred from that section to the other section.

MR. BRANSCOMBE: That is the one point I want to get clarified.

THE CHAIRMAN: You must remember that is only my opinion, when this Committee makes up a report it will have to decide.

MR. BRANSCOMBE: Will it be possible to get that report?

THE CHAIRMAN: When the Committee brings the report to the Legislature, it will be available to everyone, and it is possible and very probable that the Department under whose administration the Cemeteries come, may bring in new legislation based on this report. I think that is the hope and the plan at the present time. The future is always uncertain but the report of the Committee will be public information.

MR. BRANSCOMBE: Would the Committee sanction anything any individual says?

THE CHAIRMAN: Any time before we make up our report, we will be pleased to receive anything you have to say.

Gentlemen, I think we should now adjourn until after lunch when we will hear from Mr. Kelly and Mr. Sedgwick.

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---- Whereupon the further proceedings of this Committee adjourned until this afternoon at 1.45 o'clock p.m.

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A F T E R N O O N S E S S I O N

Toronto, Ontario,
September 14th, 1953,
1:45 p.m.

The further proceedings of this Committee reconvened pursuant to adjournment.

All parties present.

Same appearances as heretofore noted.

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THE CHAIRMAN: Gentlemen, we would like to be as good as our word and start on time. Mr. Kelly, are you ready?

MR. KELLY: Yes, Mr. Chairman.

THE CHAIRMAN: You are representing whom?

MR. KELLY: The Ontario Cemeteries Association.

Mr. Chairman, and members of the Committee, the Ontario Cemeteries Association is made up of some 90 operating cemeteries in Ontario. It was organized originally in 1912 under the name of "The Association of Cemetery Officials of Canada", its object being the advancement of the interests of and elevation of the character of cemeteries in Ontario.

The members of the Association represent religious cemeteries, municipal cemeteries, trustee

cemeteries, and some of the privately owned cemeteries operated for gain.

The Association wishes to express its appreciation for the opportunity afforded to it of expressing some views to this Committee, and as Mr. Arnup said this morning, we do not intend to take up the time of the Committee with detailed matters because a great many of them will be apparent to you and a great many of them will develop as the policy with regard to cemetery regulations is laid down.

Therefore, we wish to confine ourselves to some of the more important points, and we would also like the members of the Committee to feel free to call upon the resources of the Association at any time for any help we can give them in reaching conclusions.

The recommendations which this Association makes have been adopted by the executive and have been circulated to their members. In the brief, on page 1, are the names of those cemeteries who have specifically by letter to us, expressed their concurrence. The other members, with one exception, we have assumed by their silence, have approved of this brief. We have had one objection from one

member who feels that we do not express his views, although he has not expressed any views of his own, so we do not know wherein lies the disagreement.

The prepondering majority of cemeteries in Ontario owe their establishment to religious bodies and municipal authorities, recognizing the need and trying to provide for it.

Facilities for the burial of the dead, I think, have always been recognized, and have always been considered in this province a service to be provided by the church or the municipality, and since the growth of urban municipalities, cemeteries have been operated on a mutual basis for the benefit of the plot owners.

The Statutes of Ontario have long recognized that, and I think it becomes apparent from a detailed study of the whole theory of the Act, and the regulations under it have been directed to management of a public service rather than a commercial service.

Until recently, there has not been in Ontario a great urge for provision of burial services by commercial and profit-earning organizations, but this becomes apparent now and we submit that a need for the review of the present legislation and regulations has been recognized by the appointment of this Committee.

May I say, so far as the Association is concerned, as it represents public service, religious and municipal cemeteries, as well as those which are privately owned, It does not feel that the ownership of a cemetery for profit or gain is in itself reprehensible, but it does feel and urges very strongly, that the primary object for any cemetery existing is to provide decent burial services, and that where those who are promoting a cemetery undertake^{it} as a private venture that the primary object for that body must always be for provision of that service, and the type of their operations must be governed by that consideration and not by the desire for making a profit. The profits must be secondary, the service must be first.

We feel that to meet this condition, there must be some provision, even for the public service cemetery, and the present control perhaps is not well adapted in view of the present conditions.

For those reasons, we feel we are justified in recommending that there should be some Provincial Government supervision of cemeteries. First, cemeteries are almost a universal need, for which every family finds itself faced, and it is not a matter of choice, but one of necessity. Therefore, it

should definitely be in a position where it must of necessity do something which is more than is necessary for the need which is faced at times.

The second thing is one^{of} which this Committee is well aware, regarding abandoned cemeteries. The provision of burial space today carries with it the necessity of continued preservation of that place far beyond the lifetime of the purchaser or the owner, and therefore affects the future as well as the present day citizens. There must be some continuing assurance that the needs of those who buy it for their departed can be assured if necessary in perpetuity.

Thirdly, the legislation of Ontario recognizes that the municipal ratepayer in the last instance is responsible for the provision of cemetery care. As Doctor Berry pointed out this morning, in the event of a failure of any form of ownership, the responsibility falls back on the municipality, and therefore on the ratepayers. We feel, therefore, that those ratepayers who have provided their own cemetery provisions and needs by subscribing to one form of cemetery should not be forced to provide for another form of cemetery indirectly through the failure of a cemetery, and in consequence, introduction of municipal taxes.

However, there is this to remember, as long as cemeteries were operated by religious bodies and municipalities and trustees, all the funds which came to the cemeteries from the sale of services remained available for the needs of the cemeteries. If there is to be a feasible profit, it is essential that there must be set aside, in a manner which is beyond any doubt and beyond any reach, what is necessary to provide for continued care. This is a matter in which a difficulty arises in our submission.

From a breakdown of the experience in cemeteries, there are roughly 1000 graves to an acre, and it has been found by the members of our Association that while they are required to put aside perpetual care of only 15%, under present conditions, they are finding that 40% or 50% is not too much. The majority have frankly admitted that they have no sound actuarial ground that they can assure that that amount will be adequate in the future.

The provision of an adequate amount for the future needs is going to be a matter which will require the most skilful services of the highest mathematical and actuarial brain. Like insurance companies find, you can start off with the first

premium, and for the first few people who pay their money, there will be sufficient to pay for their policies, but there is a contingent liability which is growing up all the time, and at some time in the future, unless your contributions have been adequate, you will come to a place where the reserves for the service will fall short of providing that service.

Consequently, if perpetual care funds are not enough, it will not be known for perhaps 25 or 50 years, but at that time, another Select Committee of the Legislature may be faced with solving the problem of how to care in future for cemeteries which under today's regulations, did not set up enough for their perpetual care funds.

For that reason, we urge that the determination of this should not be left in the hands of local Boards of Health, but be transferred to the provincial authority where they call upon the services of the people skilled in actuarial science, and the mathematicians who know these things.

There is one other matter which I think is quite apparent at the present time, particularly in the cities. It is no longer possible for the needs of the municipalities to be provided for in the municipalities, and we find large tracts of land in

the rural areas set aside for the provision of burial for the city people.

Under our present regulations, the responsibility for the governing of that cemetery is thrown in the hands of the local Board of Health of the rural municipality and a Board of Health which may have very, very small duties to discharge otherwise. They may find themselves with a cemetery problem far beyond them, and for all these reasons, we feel the present difficulties indicate a need for more central authority.

Our first recommendation is that a provincial cemetery supervisory authority be established preferably under the direction of the hon. Minister of Health; that it be given the responsibility of enforcing compliance by cemeteries with the Act and regulations; and that it be vested with adequate disciplinary powers.

In the rest of my remarks, I may refer to the Cemetery Supervisory Authority, so if you will refer back to this recommendation, whether it is a person or a commission or whoever that authority may be -- we have no definite recommendation -- but we use the term "Cemetery Supervisory Authority" referring to the authority which we sincerely hope

this Committee will appoint, and which we believe is necessary, although it may not be any particular person.

The next point is the preparation of cemeteries. It seems to be quite inadequate at the present time to acquire tracts of land and designate it as a cemetery. There are a great many conditions to be fulfilled, and those who are purchasing lots in cemeteries are not skilled sufficiently to know whether these various conditions have been fulfilled, whether there is the necessary drainage, the necessary landscaping, the provision of roads, and the proper care of the grounds, and for that reason we feel that before the establishment, and certification of a cemetery, it is essential that the Cemetery Supervisory Authority be satisfied that the necessary preliminaries have been done, so that the cemetery has been created as designated.

We realize that it will be impossible, particularly where large tracts are provided, to do this all over, but I think it is quite the custom at the present time in the larger cemeteries to develop the land by areas, and where that is necessary the certificate of compliance could be limited to a particular area, so that there will be an orderly progression in the use of the cemetery, rather than

setting aside too large an area at one time for burial.

We feel that a purchaser is entitled to know what he will receive when he intends to buy, and that the municipality will have the assurance that the respective site is properly prepared in compliance with all the requirements of the regulations.

May I just add one other consideration in regard to large areas, particularly in regard to sales in advance of the need.

Those of us who may have bought building lots for the purpose of building a house in the future may perhaps have bought land far below the price until such time as the municipal services are put in, realizing they will have to wait some time. Any person who buys a burial plot in advance of need, has no assurance he will not need it tomorrow, and consequently the person who purchases a lot in a cemetery for burial should have the assurance of a supervisory authority that the minute he purchases it, should he die, he may be buried in it.

For those reasons, it is recommended that no sale of any burial plot be permitted until the Cemetery Supervisory Authority have issued a

certificate to the effect that the grading, draining, fencing, landscaping of the cemetery, the installation of the roadway, in accordance with the plan approved by the Authority, and the erection of a service building, have been completed.

My learned friend, Mr. Arnup, has, I think, very adequately covered the question of the provision of regulations and I will not take up your time , but I simply subscribe to his remarks which he has made with regard to regulations and draw them to your attention.

On page 6 of our brief in regard to regulations, it is recommended that every cemetery be required to adopt rules and regulations including a scale of prices and fees; that such regulations and any changes therein from time to time may become effective only upon approval by the Cemetery Supervisory Authority, and that any change in regulations would have to be approved before becoming effective.

Now, if I might just direct your attention to the matter which I mentioned before, the question of sales in advance of need.

The Association recognizes that the acquisition of plots in advance of need is an acceptable practice if it is sought voluntarily by

the intending purchaser, promotional sales are undesirable. Such means as house to house canvassing, telephone solicitation, instalment buying with small down payments, and payment of salesmen by commission are practices not in keeping with the prevalent concepts of cemeteries.

The Association therefore recommends sales promotion and unsolicited canvassing for the sale of plots in advance of need and on a commission basis be prohibited; that no person or corporation other than a cemetery corporation itself acting through regularly employed and supervised personnel registered with the Cemetery Supervisory Authority be permitted to sell, negotiate or procure the sale of a burial plot or grave; that all persons employed by cemeteries operated for gain or profit, and employed in selling plots or graves, be registered with the Cemetery Supervisory Authority; that the number of persons so registered at any one time, as engaged in the selling of plots, or graves, for or on behalf of any cemetery, be limited to three.

I will just call your attention to some rather startling facts in regard to this. I think it is generally admitted that the layout of the cemetery contains about 1000 graves per acre. If

you apply to that even the figure that was given by Mr. Clark this morning, of \$40.00, let alone the figure of \$100.00, you find you are receiving in the neighborhood of \$50,000. to \$100,000. per acre income from the sale of plots. Applying even moderate selling commission on that means a very, very substantial amount of money being diverted from the purpose of cemeteries. If that is taken away in salesmen's commissions, there is left in the treasury of the cemetery insufficient to provide for all future need.

I would suggest to the Committee a rather careful scrutiny with their own pencils and papers on the figures, will lead to amazing conclusions with regard to this matter.

For some years, it has been recognized in Ontario that the future care of cemeteries should not be provided for in ^{the} casual way, that it was in the beginning. Since 1888, most of the cemeteries in Ontario have been operated on the perpetual care plan, in that a portion of the purchase price is set aside to provide a fund, the income of which will provide the future maintenance of the cemeteries and the care for the lots after the owners have disappeared.

As has been suggested, the Association

has found that the Statutory requirements are very inadequate because the burial ground, to a large extent, are now holding 50% for the perpetual care fund, and one other group of our members are now requiring 40%.

We submit it is most essential that the amount paid into the perpetual care fund bear a realistic proportion to the demands on that fund. They must have the first charge on the purchase price, and they must be segregated from the other funds of the owner regularly and promptly.

That means in effect that when the purchase price is paid over, the person who receives it, must receive it as a trustee for the perpetual care fund, and then after ^{the} perpetual care fund has been taken care of, the balance becomes part of the general direction of the cemetery.

This is necessary if we are not going to have a repetition of neglected cemeteries, and if we are not going to have additional burdens cast upon us.

In connection with this, we have made certain recommendations to the Committee which appear on page 8 of our brief:

"It is therefore recommended that:

every owner of a cemetery operated for profit

or gain be required to provide for the perpetual care and maintenance of the whole cemetery by appropriating into a separate fund to be administered in accordance with the requirement of the Statute and Regulations, thirty-five per cent of the purchase price of each plot or grave;

that in the case of sales on the instalment plan, thirty-five per cent of each instalment including the down payment be appropriated to the perpetual care fund;

that the owner be constituted a trustee of such fund and be required to deposit it with a Bank or Trust Company other than its regular banker within thirty days of its receipt;

that every cemetery operated for profit or gain shall before receiving its certificate from the Cemetery Supervisory Authority deposit in the perpetual care fund \$25,000.00 of the funds of the corporation other than the percentage required to be appropriated to the perpetual care fund".

That, Mr. Chairman, is all I would like to say to the Committee today. I wish to thank you for your attention.

THE CHAIRMAN: We would like to thank you for preparing this brief and for your submission of it. There are a couple of questions I would like to ask you, or the officers of your Association.

The first question has to do with your statement regarding the comparison of a perpetual care fund to a life insurance policy. Now, I was not able to get your meaning from that. To me, it seems that you are ^{not} suggesting that the principle of perpetual care funds should be for caretaking, are you?

MR. KELLY: No, perhaps I did not make myself clear. May I explain it this way: if I have \$1000. and put it away today, I know that I can get 3-3/4% on that, and I know that will hire so many hours of service. I will be able to get a number of hours' care on a certain area, but if that is put on a sound perpetual care fund, I must project and provide against all uncertainties. One uncertainty is the reduction in the earning power of the perpetual care fund, because we have seen in our own experience, in days gone by we could get

only $2\frac{1}{2}\%$ on our money. We must provide against the other uncertainty which is the cost of labour and services.

If there is to be a perpetual care fund, not only must the present cost be provided for into perpetuity, but there must be adequate reserve against both those other contingencies, so that either the lack of earnings, the lessening of earnings, or the increase in cost of living, must be provided for.

In the case of trustees' cemeteries, all the rest of the money is there, but if you have a profit-sharing cemetery, before you can say there is a profit, not only a fixed amount of maybe 15% or 20%, but an amount which the proper authority can say is a guarantee of perpetual care must be paid, because once that profit is paid out to the shareholders, it is no longer used for those burials.

THE CHAIRMAN: I understand what you mean now. The other question I wanted to ask you -- and I think this has been mentioned several times this morning -- is why should there be a percentage of the sales price of the lot applied or deposited in the perpetual care fund? Is that the way to do it? Should there be a sum determined which should be placed in the perpetual care fund?

If you sell one grave for \$100. 00, and you put 20% of it in the perpetual care fund, you put in \$20.00. If you sell a grave for \$40.00, and you put in 50% of that to the perpetual care fund, you put in \$20.00.

When Doctor Berry spoke to this Committee at our last meeting, he pointed out to us that we should have this in mind when persons like yourself came before the Committee, whether or not the idea of the percentage of the selling price was the proper measure of the amount of money which should be set aside in the perpetual care fund. Was that right, Doctor Berry?

DOCTOR BERRY: That is right.

MR. KELLY: My submission is this: were this^a/service which each person could or could not acquire as he chose, then I think it would be fair to say that each lot would bear its perpetual care in a fixed sum. But in view of the fact that it is perhaps an unpleasant but an inescapable necessity, as Mr. Clark said this morning, that most cemeteries recognize there must be free graves, low-priced graves, etc. and that the only way in which there seems to be a reasonable way of providing them is to use it on a percentage basis so that the man who

is in a position to provide an expensive grave which is more than what is considered necessary, is paying for something over and above his need. He is paying for something he desires, and by that desire, he then helps to share the burden of the other poor graves which cannot carry their own burden.

It may not be an entirely fair thing, but I think it is something that we recognize in all factors of life. A person who goes beyond what is the low necessity can fairly be asked to contribute by his desire for the excellence, to help a man who cannot afford it.

MR. ALLEN (Middlesex South): Could I ask a question? Is it true that a cemetery composed of tombstones costs more to keep up in perpetual care than one without tombstones?

MR. KELLY: I think that is true for two reasons. The first reason is that the actual grass cutting is more expensive.

MR. ALLEN (Middlesex South): Then they would have to pay a higher percentage for perpetual care when they sold those plots.

MR. KELLY: In my view, as I feel perpetual care should be arrived at by the actuarial computation of the costs, then it would necessarily follow that

if the cost of maintaining that was high, the rate would also be high, but if the perpetual care fund is set up on the basis of meeting projected costs, I think that takes care of itself, because the projected costs will be based on the actual cost of the graves and whatever type of graves you are dealing with.

MR. ALLEN (Middlesex South): You say that the selling prices of graves in certain cemeteries is \$20,000. per acre, and you arrived at 35% which would amount to \$6000. At 3-3/4%, would it take that much to keep it up per acre?

MR. KELLY: It has been found by perhaps the largest operator of cemeteries in Ontario that they require now 50% and that is from actual experience. There is another group, and my information is that the Catholic Cemetery in Toronto operate on 40%, and we know of others that require 40%.

MR. ALLEN (Middlesex South): That would run it to over \$15,000 per acre to keep it up?

MR. KELLY: Yes, but I do not think they are selling it on quite that basis.

MR. ROOT: You mention, on the last page of your brief that every cemetery operated for profit or gain shall, before receiving its certificate from

the Cemetery Supervisory Authority, deposit in the perpetual care fund, \$25,000 of the funds of the corporation other than the percentage required to be appropriated to the perpetual care fund. Are you suggesting that when the perpetual care has been laid out on the cemetery, that the \$25,000 should be returned to the profits?

MR. KELLY: My own view is this; after the perpetual care fund has been applied to all parts of the cemetery, when you had sold every lot -- I think the \$25,000 is really a guarantee with regard to the unsold portion. Until the sales have reached a very high percentage of the total land, that should still apply. Otherwise, you might have some unsold area to come back on your hands.

MR. THOMAS (Ontario): It is protection to the people who have already bought lots?

MR. KELLY: That is right, it protects those who have already bought lots and it is also a protection to the ratepayer.

MR. ROOT: When you sold out, that \$25,000 would carry it.

MR. KELLY: Yes, if the perpetual care is adjusted in the way we suggest, once the cemetery is sold out, we can see no reason for any other guarantee.



THE CHAIRMAN: Thank you very much, Mr. Kelly.
We will adjourn for five minutes.

---Whereupon a short recess was had.

---Upon resuming.

THE CHAIRMAN: Mr. Clark, would you give us your opinion on the percentage which you think is necessary?

MR. CLARK: The amount is, we require at the present time about \$1.00 per square foot to take care of small lots. We find about \$28,000 to the acre will give us sufficient to take care of things at the present time.

THE CHAIRMAN: The interest on that will carry it.

MR. CLARK: The interest on that will carry it at the present time, but it will not take care of the future if things continue to go up the same as they have done in the last few years.

I think we should strive to get \$1.50 per square foot for perpetual care in the larger metropolitan centres. The smaller centres do not require that amount. Their wages and expenses are not as high and the public do not expect as much.

There is a difference of opinion about perpetual care and I would like to read to you what

I understand as perpetual care if you would like to hear it.

THE CHAIRMAN: We will have that again at some later time. I do not want to crowd Mr. Sedgwick.

MR. CLARK: What do we mean by perpetual care? Some people understand it is just the cutting of the grass, but that is not right. There are a great number of other things involved besides grass cutting in the cemetery.

THE CHAIRMAN: All I was trying to clarify was the question of percentage of sale or the amount of money per plot which should be set aside for perpetual care.

I think that is one of the things the Committee will give a good deal of consideration to.

MR. CLARK: When you sell a piece of ground you should get perpetual care money. You should say the selling price is so much, and include perpetual care in that price.

It has been proved in the past where you sell cemetery land and try to collect perpetual care afterwards, the people do not "come across" and if you do not collect it at that time, you cannot get it later.

THE CHAIRMAN: That is not the exact thing I am looking for. What I am trying to get is, should the basis of perpetual care be so much per lot, or should it be a percentage of the selling price?

MR. CLARK: It should be on a percentage basis.

THE CHAIRMAN: The original requirement is based on the cost of the upkeep, is it not?

MR. CLARK: Yes.

THE CHAIRMAN: Mr. Cooke, would you like to say a word? Have you any different ideas?

MR. COOKE: I would say we definitely want a capital amount, and we want to sell a lot at \$150. That, of course, is including perpetual care. We want to provide an adequate amount, and it is just a means to an end. To say it is 15 or 20%, I think, is really evading the question. What we want is a capital amount.

THE CHAIRMAN: If this Committee were to make a finding, you are suggesting we could not very well make the finding, saying a certain percentage should be set aside.

MR. COOKE: No. It leads to frustration, because the man is selling one piece for \$40.00 and another selling it for \$100.00, how can percentages

compare? They cannot. We are looking for a capital amount.

May I just interject this one point? Some person suggested we receive 3-3/4% interest. We have in our possession some bonds with only 1-3/4% interest.

THE CHAIRMAN: Thank you very much, Mr. Cooke.

MR. SEDGWICK: I am representing the Memorial Gardens Association, Mr. Chairman, and before I come to the presentation of my brief, may I just repeat what my friend, Mr. Arnup, said in his presentation. I am a lawyer and have no direct association with, or knowledge of, cemeteries, and I hope it will be some years before I have reason to become intimately acquainted with one.

Just a comment on what has been said by Mr. Kelly, who was appearing for the Ontario Cemeteries Association, is in order. I will have occasion later to quarrel with some parts of his brief, but I would like to point out to the Committee that the Association, as I understand it, is not unanimous in authorizing the brief Mr. Kelly has presented. My clients, for instance, are members of this Association, and they tell me they were not consulted about the presentation of the brief. It was not

circulated to them and they had no opportunity to make their views known until the brief was published.

I am also informed there was a gentleman here representing a cemetery in Windsor, whose clients are members of the Association, and they first heard of the brief when it had been settled and was published. They protested against it, and it is of some significance to observe that while Mr. Kelly's Association has some 90 members, I have counted those who approved the brief, and there is a very small percentage. What has been said in the brief presented by Mr. Kelly is not necessarily representative of the unanimous view of the Ontario Cemeteries Association, and its members.

I think the most which can be said for it is it represents the view of the committee and some of the members and is entitled to the weight of the number of members who sponsor it. It does not matter if only one sponsored it, it is not entitled to be considered as the unanimous view of 90 members of the Association itself.

If I might come to the brief which I have been asked to present, I think you all have copies of it. It is the volume in the blue cover, which I suppose, is a suitable colour for cemeteries.

I had not intended to read it in its entirety. I had intended, with the permission of the Chairman, to do as Mr. Arnup did, to use it as a base and read parts of it and make comments. I should like to say this now, within the very narrow limits of my information, I should welcome questions and if you, or any member, thinks it better to ask questions as I go through the brief, I have not the slightest objection. I would not like anyone to keep his questions until the end because it may be they are pertinent if they are asked as the brief is being considered. I have no objection, however, I am in the hands of the Chairman of the Committee in that respect.

On the first page of the brief, we find a very general history, pointing out originally the cemetery was an adjunct of the church, it was "God's acre", and for many years most of the cemeteries in this province were operated in conjunction with the Parish church.

We have come a long way from that, and as far as I know, there is only one cemetery in Toronto still operating as a Parish Church.

Because of the multiplicity of sects, the fact that churches could not care for the graves, has resulted in cemeteries of two or three types,

the non-profit cemeteries, if you care to call them that, and the cemeteries which have been operated in the public's interest.

The earliest conception of cemeteries as we know them today consisted of a plot of land where the dead were placed to be convenient to places of worship and assembly. In many cases, therefore, the cemetery for the community was placed next to the local church, on church property. But as Canada and Ontario expanded, population shifted, rural areas became urban, and cemeteries were becoming overcrowded.

The result of progress was that only a few rural churches with operating cemeteries adjoining still exist in Ontario. Many have been virtually abandoned through the years and have become the responsibility of the municipality, the township, or the county. Each then becomes a burden on the taxpayer.

Further difficulties arose as different sects required separate locations. Space in these sites, through the years, has become used almost to the limit.

The first concerted attempt by any individual groups to bring some order into the Ontario cemetery business came when a few cities

instituted "Burial Trusts" to handle the affairs of community cemeteries.

I suppose the Toronto Burying Trust is a good example of that method of operation.

They served their purpose well for many years. In late years, however, the role of the trust has become next to impossible to maintain in some areas. Costs of this type of operation have skyrocketed in the past decade, and show no sign of receding. Funds that were adequate for development and maintenance prior to World War II no longer provide for the care needed.

In some instances, it has remained for the municipality or other governing body to take over.

We have an example of that in regard to the man who spoke this morning in connection with the city of Guelph.

As each cemetery then becomes a charge on the public, it is paid for through additional levies on taxpayers. Several cemeteries in Ontario are operated by municipalities at a loss.

In addition to the monetary difficulties attached to the tomstone-type of cemetery, certain physical factors have made its maintenance and development a problem. As families die out or

scatter to other communities, family plots become neglected, sunken, weed-grown and serviced with only a minimum of care. Over a period of years, cemeteries have developed as loosely-designed unkempt groups of graves.

I do not think that is an unfair statement. If you travel throughout Ontario, you will see scores of examples of family cemeteries which are completely or almost completely unattended.

The number of abandoned cemeteries in Ontario has not been catalogued. It is suspected that there are 2,000 or 3,000 cemeteries in the province, less than 900 of which are licensed and under Ontario regulation. Of the 900, 213 have undetermined ownership.

From the objective viewpoint, the cemetery problem in Ontario is one which cannot and will not be solved overnight. But it is one which can be improved through adequate legislation and the infusion of new ideas.

On page 3, we have attempted to enumerate the problems.

Most of the problems facing Ontario cemeteries today have been inherited from mismanagement in the past. They include the following:

- (1) Failure to realize and compensate for the tremendous expansion in Ontario, and a consequent lack of long-range planning.

In that connection, I mean many of the old cemeteries have no perpetual care fund of any kind. There was no care fund which was left to the owners of the plot to look after as best they could.

- (2) Inadequate provision for care and maintenance.

- (3) Removal of population groups from original centres and consequent abandonment of burial sites.

- (4) Failure of various groups operating cemeteries to report existing locations and conditions to the provincial Department of Health.

- (5) Reluctance on the part of civic and other officials to assume for citizens the control and maintenance of cemeteries.

- (6) Legislation which does not encompass the problems.

On page 4, we consider the municipal cemetery because it has been said about it that there have been suggestions in some quarters that the solution is the municipalities should operate

cemeteries more generally.

In the past, a large number of cemeteries in Ontario have been operated by municipal bodies. These cemeteries are generally in good condition, but are costing the taxpayers, annually, a considerable sum of money, with little hope in the future of putting them on a self-sustaining basis. An examination of the operations for several Ontario cities for the past few years reveals the following:

	<u>Loss 1949</u>	<u>Loss 1950</u>	<u>Loss 1951</u>	<u>Loss 1952</u>
City of Chatham	\$12,543.63	\$13,666.46	\$13,490.27	\$15,770.26
City of Galt	not avail- able	7,895.94	not avail- able	not avail- able
City of Hamilton	59,312.05	30,198.80	24,571.07	not avail- able
City of Kitchener	10,042.69	10,452.01	23,936.23	19,500.22
City of Waterloo	1,823.91	1,771.85	3,281.84	3,176.66

This situation is, we believe, general throughout the province. With the addition of more property and more cemeteries, the problem of cost can only become aggravated, resulting in more and more of the taxpayers' money being poured into these cemeteries in the future.

I remind the Committee of the gentleman who gave evidence as to the cemetery in Guelph. He pointed out while they were able to make ends meet

somewhat, they did have a municipal subsidy of \$2,000. a year, which I take it is proving something less than adequate from what he said.

Consider the church cemeteries, and I mention this because it is something which you must consider.

Certain church groups and individual churches have operated cemeteries in the past and continue to do so, with some success. The majority of self-sustaining cemeteries, however, either use some of the church funds or have had substantial bequests made to them; the remainder are either ill-kept or abandoned. We are all familiar with the abandoned church cemetery grown to weeds.

Of course, the church cemetery presents a little different problem. For instance, I have a Will in my office now which is the subject of litigation and one of the bequests is for \$500. to a small cemetery in Niagara Falls, to take care of the grave of a named person. Assuming for the sake of argument, that the sum of \$500. is spent on that grave annually, that grave would be well cared for, but it will stand out in sharp distinction from the adjoining graves which have had no such good fortune, and must rely on what may very well be

quite inadequate or non-existing perpetual care funds. It is a problem. You see in church cemeteries, the occasional grave which is very well cared for, but you see grave after grave almost completely abandoned.

On page 5 of our brief, we consider the cemeteries operated by plot holders. Either they continue to care, or as generations pass by, they lose interest and they are either abandoned or taken over by the taxpayers.

Past experience has shown that these cemeteries are generally in bad condition, both physically and financially. Because of inept guidance, many of them have been taken over by municipalities, the costs of care and maintenance being borne by taxpayers. Many of the cemeteries were originally taken over by plot holders as a protective measure.

Then there is the substantial problem of the abandoned cemetery.

The provincial Department of Health states that there are 213 of 900 registered cemeteries about which it has no information as to ownership. They are presumably abandoned. It is estimated that there are at least 1,000 more abandoned cemeteries in the province. The problem here is a serious one.

Some suggested remedies:

It must first be recognized:

1. That the burial of the dead in Ontario and Canada as a whole involves large annual expenditures. There were 44,000 deaths in Ontario last year. Between \$4 and \$5 million was spent on interments alone.
2. That the system that served in the past is now antiquated and is shown to be a failure under present conditions.
3. That the operation of cemeteries is a specialized business and that they cannot be operated properly by part-time boards, meeting monthly or annually.

We agree with what has been said by both Mr. Arnup and Mr. Kelly, that cemeteries are a public trust, and of course they serve a public need. We also say the municipalities and churches generally wish to avoid the responsibility for them.

The logical development of Ontario in the future will mean that new cemeteries must be provided. They must be provided and paid for by the public which is served by them, not the general taxpayer.

We quite agree that there should be

perpetual care for them, and I am coming to that, but we do quarrel with the suggestion that there is no place in the cemetery business for privately operated cemeteries.

In a business of this magnitude, it is imperative that the management of it be in the hands of professional, full-time experts. Private ownership, under our free enterprise system, with adequate control by a Provincial Cemetery Board, whose authority would be clearly defined by law, seems to be the obvious answer. Many precedents are available for the eminently successful operation of public services by private ownership -- e.g. Bell Telephone, C.P.R., Consumers' Gas.

We think that/^{under} private enterprise, which, after all, is consistent with the system under which we live, and with adequate control by a Provincial Cemetery Board, which would have a clearly defined authority, there would be a well-kept cemetery operated in the interests of people who bought plots. They would be of no cost at all to the public generally, and would settle a need and I shall say something later about the true need for cemeteries of this kind.

This is the most difficult problem faced

by the province, particularly when it is realized that the life of a large cemetery extends through many decades. It is virtually impossible to forecast movements and growth of population, new industrial areas, etc., with any accuracy.

We believe, however, that this matter needs no legislation to control it. Conversely, adequate controls of all new cemeteries, which we will propose later in this brief, will assure the proper operation of cemeteries, and the curtailment of the activities of operators who have no desire to render the community a continuing service.

It is impossible to foresee in advance the existing population, new industrial areas, growth, and lack of growth, because we see both examples. We see cities in the north which were important cities at one time, and then we see them today, but we also see small towns and villages which were of little importance ten or twenty years ago, which are becoming industrial properties today. One must consider both aspects of the cemetery needs.

We suggest that the question of cemetery fate is not a matter which requires legislation. If you permit and encourage in the cemetery picture, a certain kind of private enterprise, if you care to call it that, as the need for more cemetery space

arises, people who have interest in setting up cemeteries to supply that need, will supply it, and will do it at no cost to the public.

That is not true if the whole of the cemetery problem is to be committed to burial trusts, and church organizations. No one should be compelled to buy cemetery space where he does not wish.

Let us suppose there is an acute shortage of plots in and around Toronto. Who is going to supply them unless you permit the entry of those people who will lay out the cemeteries, risk the capital, and provide them on a profit basis with all that is required, to those who purchase lots in cemeteries. Further, the cemeteries should be properly supervised.

One of the most important controls which should be provided by legislation is that over current development and operation. It is impossible in the early stages of cemetery operation to separate the two phases.

It takes several years, and several thousand dollars per acre, to properly build, landscape and beautify a cemetery. It is therefore impossible for any cemetery, be it municipal, religious or private, to obtain the funds to develop large areas

of property immediately. The funds must come from sales.

I think it is admitted it is well and good for a long-established trust like the Toronto General Burying Trust, which I am told has something like \$2 million accumulated in the perpetual care fund, to say the cemetery should be completed before you sell any plots in it. I think it will not be found possible to do that throughout the province generally. You must have the money to build it, beautify it, and lay out the roads. You must have some initial investment before you can do those things.

Memorial Gardens Association has been successful with its plan of operation. I think there are some fourteen cemeteries of this kind operating in Canada and a great many in the United States.

It contracts with its customers to build the garden in which the lot has been selected within two years. Invariably, we have fulfilled our commitment and generally have shortened the time by one year. 75,000 family members can testify that this plan has been fully acceptable.

Indeed, here is something which this

Committee might consider, the objections to the method of operation of cemeteries of the Memorial Gardens Association type, come from people who are interested in cemeteries. It comes from what can be loosely described as the "opposition". It comes from people operating cemeteries in opposition to us. It does not come from the general public. I did not notice any great delegation of plot holders here this morning who have been gypped or defrauded in any way. I have not observed any public agitation against these cemeteries.

Of course, it is quite understandable that people who are operating a cemetery in competition -- if you care for the phrase -- to the cemeteries, urge and protest. I have never believed one should judge any business enterprise by the squawks of competitors, and unless there is some public policy which demands these various improvements my friends have suggested, I do respectfully suggest the Committee should reject them.

As to the type of cemeteries which the Memorial Gardens Association erect, it is of course a different cemetery. It is a non-tombstone cemetery. There are no tombstones in them at all, and as you know, one picture is worth a thousand

words. I have a few pictures here of one of the cemeteries which was operated in London. I wonder if Mr. Scott might pass them around. They are actual coloured photographs and show this cemetery as it is. They show the various gardens as they look. You can go and see them yourselves,

They are quite different from a tombstone cemetery. It is much cheaper to maintain a cemetery of this type, which I shall point out later. I would be inclined to say it is more beautiful than any tombstone cemetery I have seen, and to many people, much more attractive.

I should now like to come to the question of perpetual care which we have on page 7 of our brief.

In our opinion, the object of any legislation on this matter would be to ensure that a fair part of the funds received from the sale of lots be expended on current development and operations.

That was mentioned earlier this morning. That of course is the development which provides for the use of the cemetery. It is used for drainage, because there must be drainage, roads, fences and grass and shrubbery. We say that a fair part of

the funds should be spent in that way, and we suggest -- and someone else has suggested also -- that there should be a performance bond posted by any organization wishing to obtain approval of development of an area as a cemetery.

This performance bond would be a guarantee that the area will be in fact properly developed as far as drainage, roads, landscaping, entrances and other physical factors are concerned. We believe that the following bonds should be posted:

For a 25-acre cemetery -----\$10,000.

For a 50-acre cemetery -----\$20,000.

In excess of 50 acres -----\$30,000.

The provision of such funds would afford protection for the municipality and its taxpayers.

Those are not rigid figures. That of course refers to a protective bond. It should be put there but it is not money lost. It is to ensure that the necessary preliminary work is done and when the work is done, the money or the bond would be returned and it should be for the development of the cemetery in the early stages. We are, of course, entitled to know that the preliminary work will be done, and plot holders will get what they have bought.

Turning to page 8 of our brief, we say:
In our free enterprise system, there should be no question as to whether or not there is a place for the commercial cemetery. The success of the Memorial Gardens Association plan of operation, which has in excess of 75,000 family members in Canada, is evidence of the acceptance by the public.

But proper control of the funds received by all cemeteries is needed. This poses two main problems:

- 1.. The proper development of a cemetery with adequate roads, drainage, walks, landscaping and other beautification.
2. The establishment of a Perpetual Care Fund sufficient to provide an income to maintain the property when it is all sold.

Then, in answer to some things which have been said, we say: A point which should be clarified is that no province in Canada, or state in the United States, prohibits the sale of cemetery lots on commission, provided the salesman is an employee of the cemetery. New York State enacted legislation which precluded the use of commission sales contracts, but did not prohibit sales on a commission basis by salesmen of the cemetery company.

Probably cemeteries operated for gain should pay a fair municipal tax. We mention the question of municipal taxes and agree it might not be unfair for what is called the "profit cemetery" to pay municipal taxes, although I must confess I do not know where you would get them from, and on what basis you would get them.

At the end, when the cemetery is well filled, the perpetual care fund will look after the cemetery, and if there is taxation, it will have to come out of the fund, because whether it is large or small, and based on percentage or amount, it will be the fund from which everything must be paid ultimately.

So I am not sure that taxing cemeteries is as good as it sounds. I am not sure it is of any great importance, but if they are to be taxed, it should be borne in mind:

1. The land used is invariably farm land and as such has seldom produced a large amount of tax revenue for the municipality.
2. The cemetery does not call upon the municipality to render any special or extra services on its behalf. No extra utilities are needed as a result of the establishment of the cemetery. In the

case of Memorial Gardens Association, the establishment of one of our properties in a community provides steady income to many families through the employment of office and maintenance staffs, local contractors and others, and makes virtually no demand on municipal services.

Some of these cemeteries are much older than the Memorial Gardens Association itself. It is really an operating, managing corporation. They take over a number of these cemeteries, and have, I think, operated them satisfactorily, giving technical and other advice, and looking after general details of the operation in an expert, professional way.

Memorial Gardens Association has a Federal Charter, and is affiliated with Memorial Gardens Association in the United States, which operates 140 garden-type cemeteries in 135 cities throughout 20 states.

I mentioned that to indicate that what I have said is true. They are expert and professional. They are not people who start today and are gone tomorrow. In some of the arguments we hear, one has the impression it is a "fly-by-night" thing, that they are interested in selling lots on a very

high commission, doing nothing to the lots, and getting out with a profit. That is not so. They have been operating for many years, and have operated in three provinces in Canada, and 20 states of the United States. There is a brief summary of what the Memorial Gardens Association does. Services rendered to the group by M.G.A. include management, accounting, purchasing, engineering, landscaping, sales supervision, and generally assistance of all kinds at the executive level. The co-operative administration of the properties provides economic methods of operation throughout the group, resulting in considerable savings which could not be obtained otherwise. Operating costs of Memorial Gardens Association (Canada) Limited are distributed over the 12 operating cemeteries.

Because it acts purely as a co-ordinating and administrative body, the corporation does not directly own property either in Canada or the United States, and has no capital assets. The lot sales dollar of any one of the cemeteries operating in the group breaks down, on average, about as follows:

Perpetual Care	15 $\frac{1}{2}$
Sales Costs	25 $\frac{1}{2}$
Overhead and Administration.	13 $\frac{1}{2}$

Engineering and Sales Plans	5 %
Development	17
Investors	8½
Maintenance until Perpetual Care Fund	
Adequate.	6
Profit	9½
	<hr/>
	100%

I do not apologize for that profit of 9½%. This is done on speculation, and some of the lots may never sell at all. I think that it is inadequate and maybe should be more. Those figures I am told are a rough breakdown of our figures as to what happens to the incoming dollar.

These cemeteries are all of a type -- the garden cemetery. In this respect, the group differs from the traditional tombstone cemeteries, which have been so difficult and costly to maintain in past years.

There is an example of our cemetery shown in this illustrated booklet. There are no tombstones rising above the ground which may give the tombstone makers some quarrel, but it meets with the approval of the general public.

The stock of the Memorial Gardens Association group of companies is now, and for the next ten years will be, under the control of the several dozen persons who have financed the project. Each

investor, as shown in the breakdown of the sales dollar, receives a percentage of sales in repayment of his investment. At the end of ten years, however, the control of the stock will pass to the employees of the various companies.

All the properties in operation in Canada have been financed with Canadian capital.

Page 11 deals in more detail with the methods of operation. We point out that people have said, "You buy land for \$1,000 and sell it for \$100,000." That is not so at all. We sell a developed cemetery, or one that is to be developed as a cemetery. We are not selling real estate. We sell a service calculated to carry on for 150 years, long after active interest in the project has faded.

The object of the plan is to provide cemetery facilities convenient to large urban centres for a time exceeding the personal association of any customer, and to guarantee perpetual care for the property for that period.

The public acceptance of the fact that the tombstone cemetery may no longer be the best way to pay tribute to the dead.

That is another of the reasons for the existence of this garden or lawn type cemetery.

In brief, the plan of operation consists of the development of several five-acre gardens in one location.

Again referring to the booklet I have filed, each of these gardens is approximately five acres and the cemetery consists of about as many of those gardens as there are five-acre plots in a 40-acre cemetery, which will be something like eight garden plots of that kind.

We point out that they are only built where there is need. Of course, that follows and relates to what I have said earlier, that Memorial Gardens Association survey the particular needs of a community. If it is their opinion there is either inadequate cemetery service, or if there is demand for cemetery service of this kind, which is definitely a need, then they establish a cemetery. They do not do it by guess-work. They follow the need, and because they do follow the need, they sell the lots.

Following is the procedure of sales followed by M.G.A.:

1. Rights are sold to the public, in advance.
2. Rights of purchase are limited to the reasonable needs of each family, to reduce speculation.

Someone has said lots are speculated. If they are, it is certainly not the intention of my clients and they do not encourage it.

They try to sell to the heads of the families, a sufficient number of lots to satisfy the needs of that family, and they do not encourage re-sale, indeed, their contract provides they try to control re-sale. But you cannot reasonably prevent re-sale, if a man buys a lot and is living in Toronto, and goes to Quebec city, it is unjust to say, "You cannot sell it", and give him no alternative.

It has been suggested someone might buy 50 or 100 plots which would permit him to sell them for twice the amount he paid. Nothing of the kind is done. The Memorial Gardens Association endeavours to discourage re-sale, but for all of these reasons, they can not completely prevent it.

In dealing with the question of pre-need sale, I am looking at a magazine, which is the annual cemetery document paper published in Canada, which is called "The Canadian Cemetery Service" and the issue I have in hand is September, 1953. It is a magazine which very obviously appeals to the people who operate cemeteries throughout Ontario and Canada, and to the people represented by Mr. Kelly.

I see on page 10, a paragraph headed,
"A welcome aid to pre-need selling" which says:

"Managers of traditional cemeteries who are interested in pre-need selling will find A.C.A.'s newly published Pre-need Sales Kit of great help. It consists of 29 loose-leaf pages which not only represent convincing arguments why the families should buy cemetery lots in advance of need, but also much needed information on the ideals and services of the modern cemetery.

"The Kit contains material for the non-monument as well as the monument cemetery, and the cost to A.C.A. members for whose exclusive use it is designed, is modest."

It goes on to say that a cemetery organization must choose between "sitting and waiting" or "pre-need selling", and with that, I quite agree.

When I see some of the briefs which have been presented here, they speak of pre-need selling as if it were in some way a crime. I say it is no more a crime than selling insurance, and it is highly satisfactory to some people to buy while they are still alive, the plots in which they intend to rest when they are dead. I say there is nothing at

all wrong with it as long as it has no fraud, as long as it is the honest delivery to the purchaser of the thing he or she bought.

A guaranteed perpetual care fund is established with one of three Canadian trust companies.

Single lots in Memorial Gardens Association cemeteries range in price from \$30 to \$149, with the average price being about \$70. Family burial estates, from two to eight grave spaces, range from \$115 to \$177, averaging \$146. A large percentage of sales is made on the instalment plan, with contracts usually running from 24 to 36 months.

Something was said this morning by Mr. Arnup. As I recall it, he said a plot in one of the cemeteries was sold for about \$40. It is in his brief somewhere.

On page 5, of Mr. Arnup's brief, we find:
"To illustrate this point, the trustees refer to a list of prices which they have seen, from which it appears that one of the incorporated companies referred to, "110. plus \$16.50 for perpetual care, a total of \$126.50, for a single grave, three feet by nine feet. The trustees are selling their standard single graves containing the same grave space in Prospect, Pinehill and York Cemeteries

for \$40.00."

I do not quarrel with Mr. Arnup's figures, and I can only say they do not agree with our experience and we have a little experience.

We arranged to buy two single plots in Prospect Cemetery and paid \$171.00 for them in the spring of this year. They are only single plots, and I suggest the answer is that there is desirable space and that which is not desirable. In considering prices and comparative figures, I say they should be accurate. The figures Mr. Arnup gave you this morning may be accurate, but they are misleading. We deliberately bought these lots to see what they cost and they cost \$171.00, and those are the figures we received.

On page 12, we say: Each sale is made to the family as a unit; speculation is not encouraged, and therefore the number of lots sold to any family is limited to foreseeable needs.

Some criticism was made of that this morning. I must say I do not understand the criticism. For years, people have bought more than one lot. I know my family owns a plot of ground in St. James Cemetery. My mother and father are buried there, and it is in my mind there are twelve plots left. What is wrong with the family deciding to provide sufficient grave space for the members of the family in the foreseeable

future? It is said here it is speculative, and in some way wrong, but if it be any of those things, it is a very old standard.

Under the contract, each family is given a Protection Agreement which guarantees a free deed to the family burial estate if the contract is not paid in full at the death of the bread-winner, provided that one grave space has been paid for at time of death.

It may be a little thing, but it is an indication of the attempt to deal fairly, and it is an indication that in the minds of the promoters of this particular project, there is an intention to protect the public. If the maker of a contract cannot carry it out, because of death, they want to protect him in that eventuality.

In addition, a family is permitted to transfer its burial estate, without charge, to other cities in Canada where cemeteries of this group are operated, if the family should take up residence in one of these localities.

The actual sale of this service, we believe, ranks with those involving hospitalization insurance, physicians' services through group plans, and other pre-need plans which today's economy offers to the individual.

The organization has one general plan of development, which has to be adapted to fit the circumstances surrounding each property and depending on whether an existing cemetery or vacant land are purchased.

I have already said the Association sometimes takes over existing cemeteries and reforms them.

If farm land is purchased, an immediate topographical survey is made, and an overall plan of development with roads, drainage, grades, etc. is prepared by M.G.A.'s engineering department. Each garden in the master plan usually consists of from three to five acres, containing 3,000 to 5,000 grave spaces. The plan of development, which includes 18 to 22-foot wide roads, broad walkways, plant spaces and areas devoted to memorials, yields, over the whole property, about 800 grave spaces per acre.

I do not quarrel with Mr. Clark's figure of about 1000 graves per acre, but you must take out of that, of course, the central memorials and things of that kind, and on an average, we figure about 800 graves per acre.

The financial plan provides enough initial funds to develop one garden immediately in each new property. This is usually done within the first six

months of operation, if the new property is undeveloped farm land. If the property purchased has been a cemetery, experience shows that it is invariably in a badly run-down condition, with sinking graves the general rule. It is generally rough and in an unsatisfactory condition. In this case, M.G.A. spends the first year cleaning up the property in the developed portions, during which time the plans for developing the new sections are prepared.

The property is developed into a series of religious gardens, each of which contains a central memorial, from which the garden takes its name. In addition, when completed, the garden contains special landscaping features, including sun dials, fountains, bird baths, benches, pools, etc.

They do not develop the whole 40 or 60 or 80 acres at once, but develop one and progress in that manner. And when the garden is completed, there again we say one picture is worth one thousand words, and I refer you to the pictures I have filed.

On page 14, we point out that it has always been a thorny problem, the problem of perpetual care, because, as Mr. Kelly said, it is extremely difficult to solve the problem to any stated point of time.

The gentleman from Guelph said they have

bonds earning 1-1/4%, and I know you can get good bonds now that earn more. It is also true costs are probably two or three times today what they were in the 1930's, so it is difficult to say how much money represents a fair contribution to the perpetual care fund.

Perpetual care of cemeteries throughout the years has always been one of the most pressing problems facing administrators of burial sites. In the past, the care has often and necessarily been handled from day to day, with no provision for the future.

Much of the trouble stems from changing economic times. Funds which were considered adequate for the maintenance of property years ago have faded in the light of an expanding and higher-gearred economy. And indeed in some cases no concrete plan was ever set up to provide for care at all. Under the Cemetery Act as it now stands, however, 15 per cent of lot sale revenue must be devoted to perpetual care. In cemeteries where maintenance has suffered in the past through lack of funds, 15 per cent contributed now is insufficient to cover the tremendous costs of rehabilitating the grounds, let alone provide for day-to-day care.

In that connection, I would like the

Committed to see the problem as it is. The cemeteries which are operated by my clients start fresh. They sell lots and take 15% of the sale price for perpetual care, so that they have a constantly increasing perpetual care fund. As I shall point out later, it is completely adequate for present conditions, and, I think, adequate for any foreseeable conditions in the future, but it is quite different when one comes to the old cemeteries.

In the case of an old cemetery established before there was any perpetual care fund, the person must pay for the perpetual care not only of the new graves, but of the old graves which have no fund to support them. That is why it is quite ridiculous to generalize in terms of percentages. That is why it is ridiculous to suggest that 50% or any percentage is fair, unless you look at the percentage in relation to the cost.

If you take a simple example, let us take a cemetery which is pretty well sold out and has a very inadequate perpetual care fund. The sales are, shall we say, two lots each year, and it would take the whole of the sale price of the lots going into the perpetual care fund which would not look after the cemetery.

That is what is happening in the older cemeteries. Certainly they are putting aside 50% of present sales, but that is because they took nothing from the sales which they made 30 or 50 years ago. So what they are doing is asking the purchaser who buys the graves today, to assume the burden of looking after his own grave and the graves of those resting in the cemetery, graves which have been there up to 50 or more years.

So I say you cannot think properly in terms of percentage of a figure, particularly when you consider only the percentage of the sales today.

Then we list what we mean by perpetual care and what should come under it. Perpetual care of a cemetery should include:

1. Mowing of grass.
2. Trimming of grass around upright stones, roads and walkways.
3. Replacement of trees and shrubs.
4. Maintenance of roads and walks.
5. Maintenance of entrances.
6. Resetting of stones and markers.
7. Repairs to buildings and memorials.
8. Filling and re-sodding of sunken graves.
9. Repairs to fences.
10. Repair and renewal of maintenance machinery.

Perpetual care, however, should not include:

Replacement or repair of articles or objects placed in the cemetery, the damage to which was not caused by the cemetery or its employees, such as theft or vandalism.

I am told there is considerable of that today.

The problem of perpetual care may be considered under the following headings:

1. (a) The Tomstone Cemetery and its Care.
 - (b) The Old Tomstone Cemetery.
 - (c) The New Tomstone Cemetery.
2. The Garden-Type Cemetery.
3. General Collection and Administration.
 - (a) What Cemeteries should have Perpetual care funds?
 - (b) From what sources should funds come?
 - (c) In whose hands should the funds be placed?
 - (d) Investment of the funds.
 - (e) Irrevocability of principal.
 - (f) Perpetual care funds from instalment payments.

1. (a) The Tomstone Cemetery and its Care

The Tombstone cemetery is traditional in almost every community and has not changed greatly in the

last 200 years. In this respect, cemeteries have not kept pace with changing times. When a laborer could be employed for \$1.00 per day, the cost of upkeep was small. Today, however, we have hundreds of acres of tombstone cemeteries which are exceedingly costly to maintain. The installation of a tombstone immediately increases the cost of maintenance of a grave, since all labor must be done by hand. The trimming of the grass around the stone several times per year and the hand mowing of the grass on the grave is a costly operation.

It has been estimated that the cost of maintaining a tombstone cemetery is approximately two to three times that of the garden type.

1. (b) The Old Tombstone Cemetery

The older tombstone cemeteries in Ontario are generally in bad condition both physically and financially. In many cases, they are abandoned. Municipal cemeteries are generally in good condition physically, but are costing the taxpayers a considerable amount of money on a continually increasing scale. In some cases, an alternative method of providing perpetual care has been used. The life of the cemetery or group of cemeteries has been prolonged by the purchase of additional

land. As this land has been sold, large amounts of money (up to 50% of lot sales) have been set aside to provide income to maintain the older portions of the cemeteries.

In any case, the taxing of persons who have never used and may never use a municipal cemetery or the use of funds of new purchasers to maintain 75-year-old graves in other cemeteries is an inequitable and unjust practice.

1. (c) The New Tomstone Cemetery

Because of the excessive costs of the maintenance of graves and tombstones in a cemetery of this nature, we suggest that there be placed in the Perpetual Care Fund of all these cemeteries:

20% of all lot sales revenue

and

a minimum charge of .10¢ per square inch of space occupied by the monument or the grave marker placed above ground level.

Everybody has been making suggestions and we will make one. In the tombstone cemeteries, we think there should be 20% of all lot sales revenue and a minimum charge of 10¢ per square inch of the space occupied by the monument or the grave marker placed above ground level, to be placed in

a perpetual care fund of all these cemeteries.

That suggestion was made because one of the grave costs in the tombstone cemetery is the cost of maintaining the tombstone. It would seem fair some amount should be paid into the perpetual care fund which bears relation to the size of the marker on the grave. The purchaser of a tombstone should pay some percentage of the cost of the memorial to the cemetery in which it is to be erected, because it undoubtedly is a burden. It undoubtedly costs money to maintain and tremendously increases the drain on the perpetual care fund of that cemetery. If one is to talk about things carrying their own weight, the Committee might well consider the question of the tombstone and the memorial, towards its upkeep through the years.

2. The Garden-Type Cemetery

In our opinion, the problem of maintenance in the new garden-type cemetery is simply that of carrying out the present regulations under the Cemetery Act, with safeguards as to irrevocability of principal and supervision of payments to the fund, plus the addition of an allowance for grave markers.

We have made an exhaustive analysis of the costs of care in five of our cemeteries in



Canada and three similar type cemeteries in the United States in which there are heaviest maintenance costs. The area covered is only that in which many burials have taken place. The total is 259.9 acres.

The average cost, which does not vary significantly from one cemetery to another in the group studied, is \$341.38 per acre per annum.

That is considerably under the figure Mr. Clark gave. .

The above figure includes all costs covering labor, depreciation of machinery, office and administrative costs.

We have no tombstones. We only have shrubbery, fences, and the keeping of the grass in good shape.

The problem therefore is to provide a trust fund which will produce \$341.38 per acre per annum plus a safety factor to cover possible increases in costs over a long period of time.

At this time, Memorial Gardens Association, in compliance with the Ontario Cemetery Act, is placing in the perpetual care fund:

In Toronto Area -- 15% of lot sale price, averaging
\$13.50 per grave space.

In Other Ontario Centres -- 15% of lot sale price,
averaging \$11.00 per
grave space.

In addition, M.G.A. places 10% of the installed price of all grave markers in the fund. This averages \$10 per grave space. Thus, in the Toronto Perpetual Care Fund:

From Grave Sales (800 per acre at	
\$13.50 each)	\$10,800.00

From Grave Markers (allowing 25%	
for unmarked graves	
600 x \$10)	<u>6,000.00</u>

PERPETUAL CARE PER ACRE	\$16,800.00
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The above sum, of \$672.00 per acre per annum for perpetual care is almost twice the sum (\$341.38) actually required.

Therefore, it is apparent that the present requirements of the Ontario Cemetery Act -- that 15% of lot sale revenues be deposited in a perpetual care fund -- are adequate, provided an additional amount (the 10% of grave marker sales) is made available.

I say that is adequate for this type of cemetery. I am not suggesting it is adequate for other types of cemeteries. While 10% may be adequate in one cemetery, 15% would be adequate in another. All I say is, it is adequate for our cemeteries.

And on the basis of the above calculated costs and income, we recommend that in garden-type

cemeteries, perpetual care funds should be established as follows:

15% of all lot sale revenue

and

10% of the installed cost of each grave memorial, or a minimum of 05¢ per square inch of monuments or grave markers below the surface of the ground.

The garden-type of burial ground is much more costly to develop, but much cheaper to maintain. Therefore, the securing of original capital to design and execute the type of cemetery is of prime importance. Few problems of maintenance have to be faced.

Development, in its initial stages, when the cemetery is putting in stone walks, and gardens, and memorials, is more costly, and that comes out of the initial costs, but not out of the perpetual care fund. When that has been done, and the trees are planted, the grass is sown, and so forth, they are definitely less expensive to maintain. There are very few problems of maintenance.

Because no monuments extending above the ground are permitted in garden-type cemeteries, care of the property is reduced to a fairly low cost. Grass and hedges, due to the lack of obstruction, can be trimmed and clipped by machine. Sod edging

is required around the bronze plaques which mark individual or family plots, but in general, seeding, trimming and other phases of maintenance can be executed at minimum cost.

3. (a) What Cemeteries Should have Perpetual Care Funds?

Unless every cemetery hereafter approved in Ontario, private, municipal, church or fraternal, sets up and maintains a Perpetual Care Fund, there will always be a continuing problem of abandoned cemeteries.

I observed in the brief presented by Mr. Kelly that he spoke about a special set of regulations for profit cemeteries, as if the people buried in these cemeteries were different from people buried in other cemeteries. I assure you that is not true. If you are to have regulations as to Perpetual care, on profit cemeteries, they should apply on all cemeteries, and all cemeteries should be compelled to care for the hallowed dead about whom Mr. Arnup spoke in such sonorous phrases, and not only left to the profit cemeteries to care for them.

We suggest every cemetery should have a perpetual care fund and we recommend that new cemeteries of all kinds, commencing business hereafter, should be compelled to deposit in a perpetual care

fund, with a trustee, the following amounts:

In municipalities of 100,000 or more.....	\$25,000.00
" " " 50,000 " "	15,000.00
" " " 25,000 " "	10,000.00
" " under 25,000	5,000.00

We do not suggest that money should be lost. We only suggest it should be deposited as a guarantee to the perpetual care fund adequate for the care of the cemetery set up, and we say that the money should be deposited when the cemetery is started. One fund should be set up to ensure the initial maintenance will be done, and the second fund should be deposited to ensure the perpetual care fund be set up.

When the funds have been set up, and as it was set up, you would withdraw from it. If we set up a fund of \$25,000. and after six months, we had deposited \$8,000. in the perpetual care fund, we would be entitled to withdraw from our \$25,000., \$8,000., and we would be entitled to withdraw to the extent we paid into the perpetual care fund until we had withdrawn the entire \$25,000.

If we did not make the necessary sales or deposits, then we would of course lose our \$25,000. but at least there would be a perpetual care fund.

MR. LYONS: Could a bond be provided for the amount similar to the \$25,000. cash, which is required in the first instance providing for the development?

MR. SEDGWICK: When I speak of cash, I mean either by cash or by bonds, because after all, it is the same thing. The bonding company puts up the bonds and then they get the cash.

THE CHAIRMAN: How would that operate, Mr. Sedgwick, providing the company pays up the bond which is good for a limited time?

MR. SEDGWICK: I do not think that kind of bond should be put up. The kind that should be lodged should be like the one you get in a brokerage license, which is good for eternity.

THE CHAIRMAN: It is only good for as long as you pay the premium.

MR. SEDGWICK: In most bonds of this kind, the bonding companies will not accept them unless you put up all or most of the money in cash, but if your credit is good enough, they will put it up. I see no difference between cash and a bond. It would mean cash would have to be put up, actually.

The cardinal principle which must be recognized is that perpetual care funds can only be

collected efficiently at the time of purchase or use. Therefore the practical approach is to collect perpetual care from lot sales, marker sales, etc., directly from the funds contributed by persons using the cemetery services, and thus relieving the taxpayer of additional levies, and future lot purchasers from the burden of caring for old graves.

We completely agree with what has been said by the other speakers that the only way you should collect perpetual care funds is at the start, and you must collect them at that time. You may try to make demands and collect them, but you will not. You have to get the money at the start, or not at all.

I do not think we quarrel at all with the fact that the funds should be placed in the hands of a trust company. We quite agree they should be so placed, so they cannot be tampered with in any eventuality. As to the investment of funds, it was mentioned earlier that funds are invested under the **Trustees Act**, and it occurred to us, that these funds might have the latitude the insurance companies have. They have a slight speculative attitude and they earn a little more than trustee securities, but that is a minor detail.

The principal of the perpetual care fund



should be irrevocable. This can be accomplished by agreement between the cemetery owner and the trustee. This type of agreement is entered into by Memorial Gardens Association with all trustees of its perpetual care funds.

Since Memorial Gardens Association is mainly engaged in instalment selling, we speak with some knowledge of this subject. Our operations parallel, to some extent, the operations of a life insurance company. We are all familiar with the standard life insurance contract which has no cash surrender value for three years. This is because of payment of sales commissions and the administrative costs.

Similarly with sales made by Memorial Gardens Association. The early payments on the contract go to pay sales commissions, administrative costs, etc., and the balance goes into the development fund. Our commitments to purchasers necessitates the building of the selected garden within a two-year period. I have already said we sell on instalments. I do quarrel with the percentage of each instalment because it must be remembered that selling these cemetery lots is a little like insurance. A company gets nothing out of the first instalment, any more than an insurance company gets anything out of the

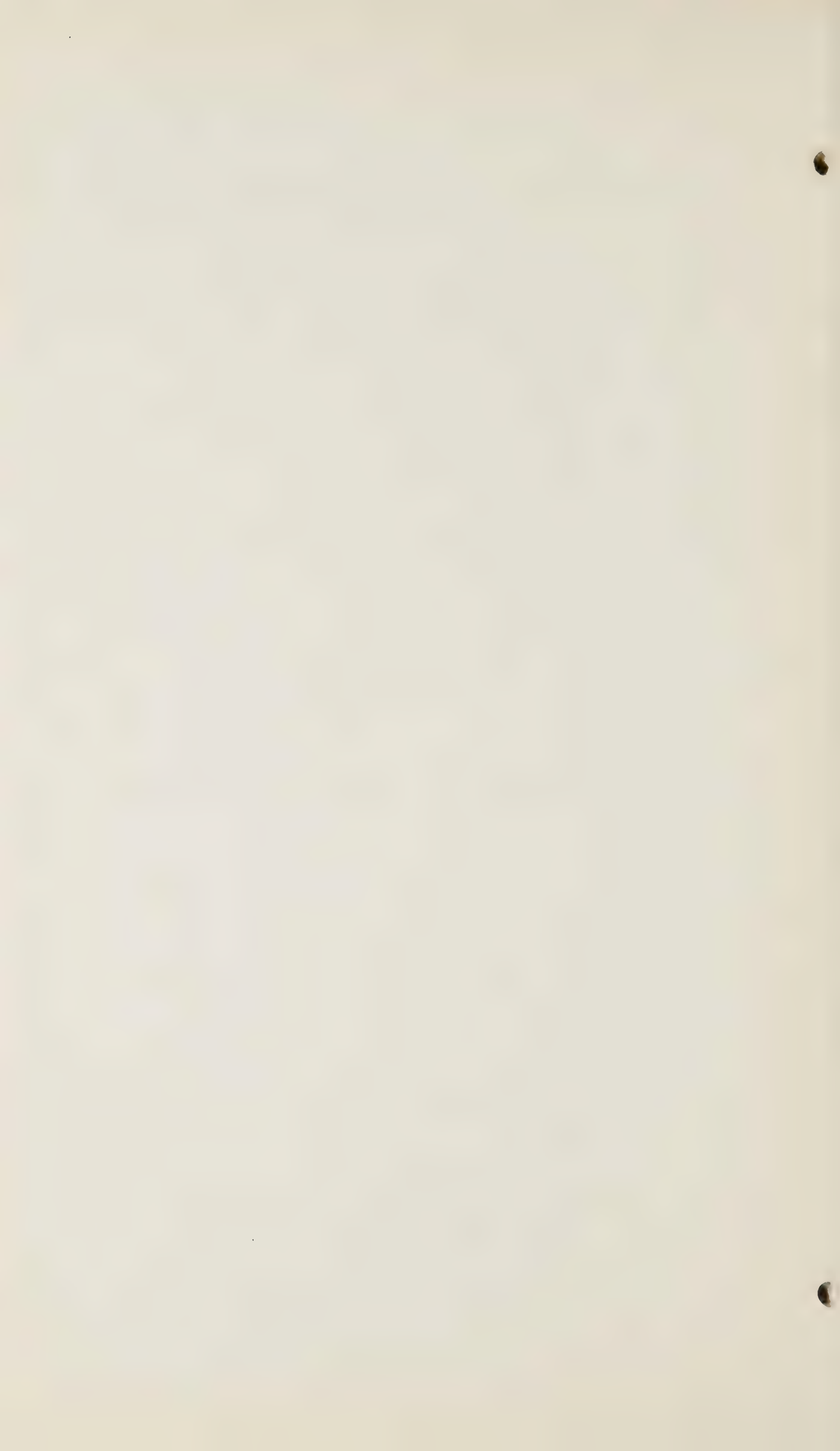
first premium you pay. It is all gone in commissions and administrative costs, and after all, it is not a sale until the payments are completed. I think all interests should be satisfied if, at the conclusion of the transaction, we pay 15% out of the funds.

Memorial Gardens Association has always set aside all perpetual care funds in a separate bank account. When the deed of title to the grave space is delivered to the owner, the funds for perpetual care are paid into an irrevocable trust fund held by one of three Canadian trust companies -- Royal Trust Company, Canada Trust and Guaranty Trust.

There has been considerable controversy on this subject, and as recently as 1951 the State of Illinois investigated and amended the State Cemetery Act. We quote from it as follows:

" Not less than the following amounts will be set aside and deposited in trust:

1. For graves, .20¢ per square foot of the space sold or 15% of the sale price, whichever is the greater, with a minimum of \$7.50 for each sale of a single adult grave.
2. For a crypt, not less than 10% of the sales price, with a minimum of \$15.00 for each crypt sold.



3. For a niche, not less than 10% of sales price, with a minimum of \$5.00 for each niche sold.
4. For the special care of any lot, grave, crypt, or niche, or of a family mausoleum, memorial, marker or monument, the full amount received.

Such setting aside and deposit shall be made by such cemetery authority not later than thirty (30) days after the close of the month in which was received the final payment on the purchase price of each lot, grave, crypt or niche, or the final payment for the general or special care of a lot, grave, crypt or niche or of a family mausoleum, memorial, marker or monument."

We believe that a periodical statement of deeds issued and monies paid to trustees, together with the trustee's receipt, for funds paid into the perpetual care funds, should be filed with the provincial cemetery authority.

I am not sure the periodical accounting should be monthly, but it should be annually or semi-annually. The accounting should be with the provincial authority, showing the funds which should have been paid into the perpetual care fund, have, in fact, been so paid.

The following recommendations, we believe, would aid the province of Ontario in its desire to find a solution for the problems facing cemetery operators at present. Some of these recommendations have been made earlier in the brief; others are developed here as a result of the facts presented in the previous pages.

Memorial Gardens Association (Canada)

Limited therefore recommends:

- 1.. That the inspection and supervision of cemeteries should be taken out of the hands of the local Boards of Health and placed in the hands of a Provincial Cemetery Board.

The reasons for this recommendation follows:

- (a) The failure of many local boards to adequately inspect and supervise cemeteries.
- (b) The inability on the part of many local boards to supervise cemeteries, through lack of practical experience.
- (c) The fact, now recognized, that the supervision of cemeteries embraces a far wider field than that of Public Health.

In our opinion, the Provincial Cemetery Board might consist of three members:

One representative from Department of Health

One representative from Department of Planning
and Development.

One representative from Department of Municipal
Affairs.

In addition, the Provincial Cemetery Board
might engage a staff headed by a Director of Cemeteries,
adequate for the purpose of effective supervision of
the cemeteries in the province.

On page 24, we also mention the New York
Cemetery law. I think everybody agrees it flowed from
a very, very careful enquiry, and we suggest it
should be studied. I believe Mr. Arnup has already
placed before you, a little booklet which contains
the New York Act.

No well thought out regulations appear to be
set up anywhere in Canada for the control of cemeteries.
However, in the United States, several pieces of
legislation have been set up to control cemeteries.
In New York State the cemetery laws were revised in
1949 to provide for a Cemetery Board consisting of the
Secretary of State, the Attorney-General and the
Commissioner of Health. Operating under the control
and direction of this board is a Director of Cemeteries
who is responsible for the administration of the cemetery
laws and exercises and performs such duties and
functions of the board as it assigns and delegates to
him.

As a source of funds for the Provincial Cemetery Board's work, we suggest that each cemetery in Ontario should pay to the Board \$1.00 per burial, not to exceed \$500.00 for any cemetery per annum.

The function of the Provincial Cemetery Board might be defined as follows:

1. The approval of new cemeteries.
 2. The supervision of all cemeteries.
 3. The approval of all prices and rates and changes thereof.
 4. The approval of rules and regulations for individual cemeteries and changes therein.
 5. Supervision of Perpetual Care funds.
- II. That 20% of all net sums received from lot sales be placed in a fund and spent on current engineering, planning, development and operations. That an audited statement showing the receipt and disposal of this fund should be filed annually with the Provincial Cemetery Board.
- III. That for new Tombstone Cemeteries, and because of the excessive cost of maintenance of graves and tombstones in a cemetery of this nature, the following amounts be placed in irrevocable Perpetual Care Funds:

(A) 20% of all lot sale revenues

and

(B) a minimum charge of .10¢ per square inch of space occupied by the monument or the grave marker placed above ground level.

IV. That for garden-type cemeteries, the following amounts be placed in irrevocable Perpetual Care Funds:

(A) 15% of all lot sale revenues

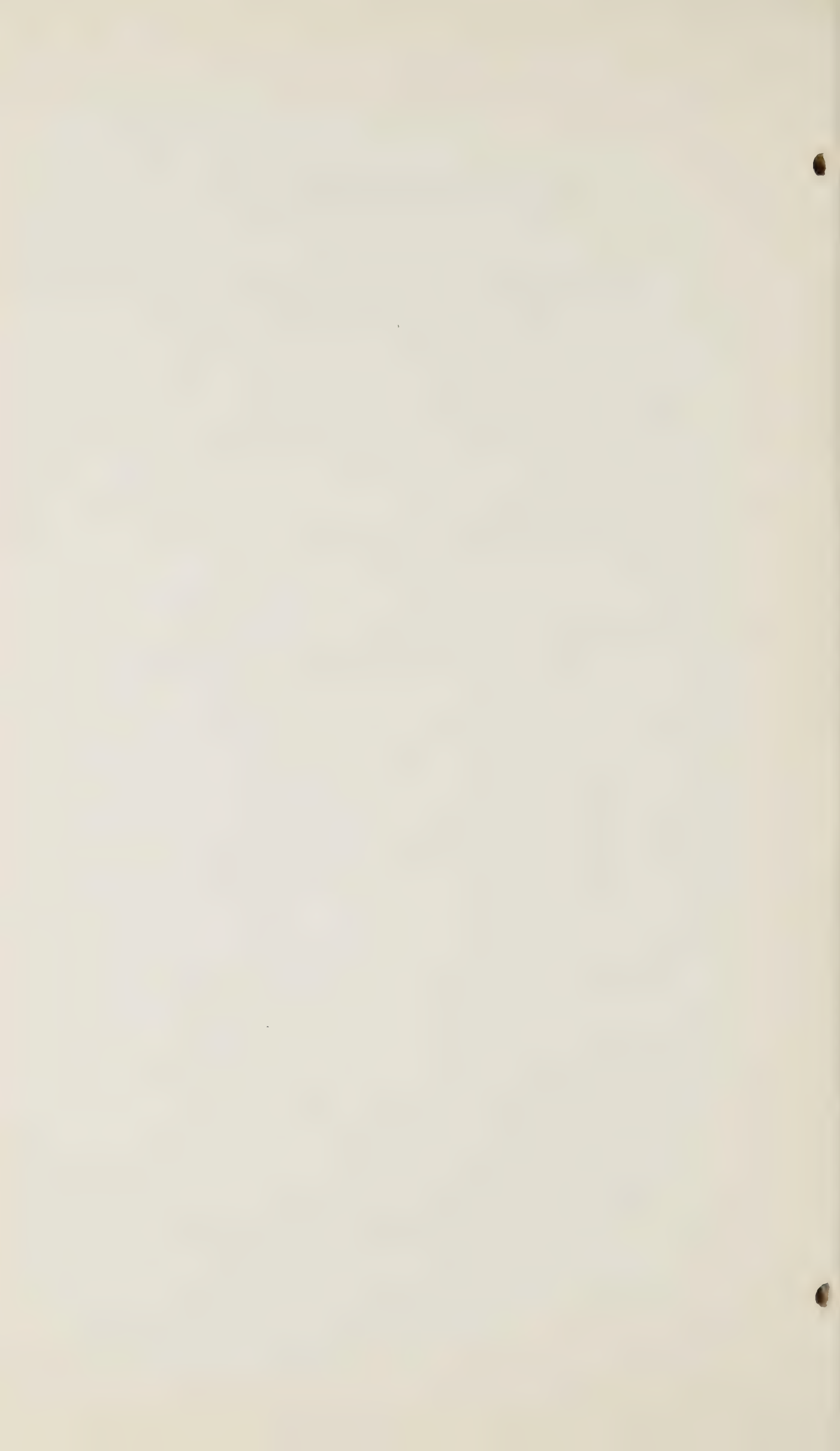
and

(B) 10% of the installed cost of each grave memorial, or a minimum of .05¢ per square inch of monuments or grave markers below the surface of the ground.

V. That new cemeteries in Ontario be compelled hereafter to deposit in a Perpetual Care Fund, with a trustee, the amounts set out on Page 19 of this brief.

VI. That a periodical statement of deeds issued and monies paid to trustees, together with the trustee's receipt for funds paid into the Perpetual Care Fund, be filed with the Provincial Cemetery Board.

VII. That any organization wishing to obtain approval of development of an area as a cemetery in



the province should post a performance bond with the province as outlined on Page 7 of this brief.

All of which is respectfully submitted.

You will be as pleased as I am to know that is all I have to say.

Mr. Edwards is with me, and he is, and I am not, experienced in cemetery matters. I might say he will be happy to answer any questions I cannot answer, and I will do my best, if any of the members of the Committee will ask any questions.

THE CHAIRMAN: There were a couple of questions I would like to ask you, Mr. Sedgwick. You mentioned -- and I guess Dr. Berry could tell me this -- the lots being purchased on the instalment plan. You have a sort of insurance plan, have you not, for a man buying a family plot?

MR. SEDGWICK: Yes, should he die, I presume the amount we pay in would be 50% of what we have received, but I will check that with Mr. Edwards.

Yes, Mr. Edwards says we pay in 50% of what we have actually received. The other lot owners would support that particular lot. A complete equity is not possible, anyway.

THE CHAIRMAN: At the time the instalment payments are being made, you are paying that?

MR. SEDGWICK: We accumulate them as the instalments are paid, and when the deed is given, we pay 15% and pay it to the Royal Trust, or the Guaranty Trust, whatever the particular fund is, and from then on, we have no control over the fund at all.

THE CHAIRMAN: What arrangements do you have with the trust companies? Supposing the trust company and yourself did not get along. What happens then?

MR. SEDGWICK: It is somewhere in this document, of which I will let you have a copy. I have a copy of the trust agreements between Resthaven Memorial Gardens and the trust company which is the trust agreement covering that particular cemetery's perpetual care fund. I do not suppose there is very much question of not getting along, because they invest the money, they accumulate the income, and then they give the income to whoever is in actual operation of the cemetery.

THE CHAIRMAN: You mentioned it is irrevocable.

MR. SEDGWICK: Yes, so far as the principal is concerned.

THE CHAIRMAN: Is that required by the Department?

DOCTOR BERRY: No.

MR. SEDGWICK: No, it is a voluntary agreement. We want to give the purchasers of plots in our cemeteries all the protection we can. Of course, the present officers will not be there forever, and the income of the fund is not payable to the Memorial Gardens, it is payable to the present officers or whoever operates the cemetery at that time.

THE CHAIRMAN: When do the Memorial Gardens Association cease to operate and the individual company take over?

MR. SEDGWICK: That is a matter of contact between individual companies and Memorial Gardens which is the management corporation. I do not think it enters into the trust agreement under which the perpetual care fund is set up. In fact, my recollection is, the Memorial Gardens people are not mentioned in it, but I will read it:

"The trustee shall pay the net income from said trust semi-annually, to such firm, person, or corporation as shall be lawfully in actual possession, management or operation, of said cemetery at the time the particular

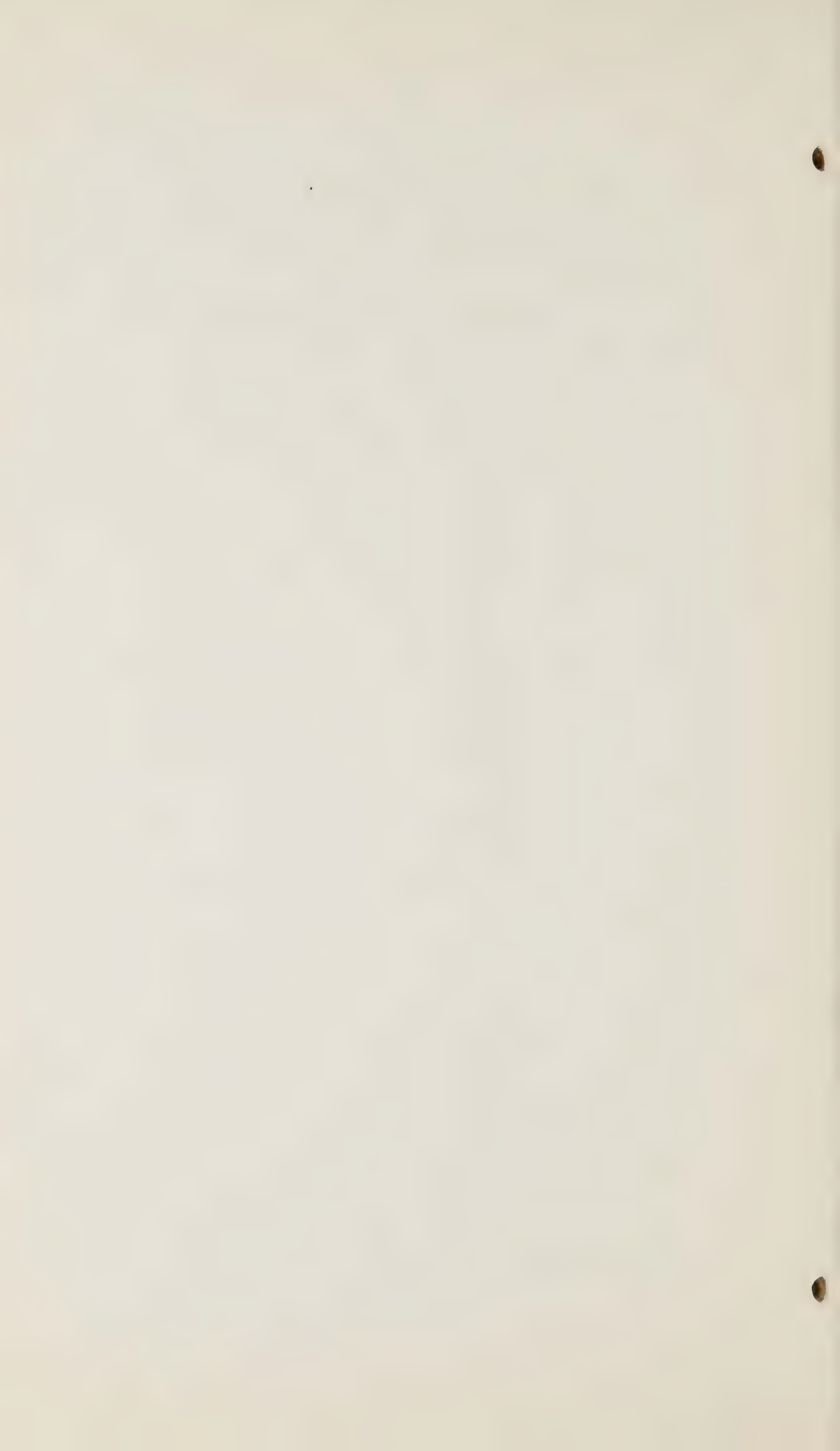
semi-annual payment is due."

THE CHAIRMAN: Do you have the power which sets out that it is irrevocable?

MR. SEDGWICK: The first paragraph says:
"The company hereby establishes with the trustee hereunder a fund separate and apart from all other funds, properties or security belonging to said company, to be forever conserved for the perpetual care and maintenance of said cemetery property, to be identified and known as Resthaven Gardens, together with the building and appurtenances and any extension or enlargement thereof, and any mausoleums or burial crypts erected therein."

I think the words "to be forever conserved for the perpetual care and maintenance" would apply there.

THE CHAIRMAN: I notice on page 12, I was not able to clearly understand the price of family plots. It says, "single lots in Memorial Gardens Association cemeteries range in price from \$30.00 to \$149.00 with the average price range being about \$70.00. Family burial estate, from two to eight graves space, range from \$115.00 to \$177.00, averaging \$146.00".



MR. SEDGWICK: Of course, the average is not the middle figure between \$115.00 and \$177.00, because you must take the quantum to find the average. I did not work out the arithmetic, I just presumed it was right.

THE CHAIRMAN: Would that be \$146.00 per grave?

MR. EDWARDS: Two grave spaces.

THE CHAIRMAN: There would be no eight-grave spaces in there, is that right?

MR. EDWARDS: That is right. They are sold in lots of two to eight but the prices quoted there are for two graves.

THE CHAIRMAN: The subject of municipal taxes, as you say, is quite a problem. I noticed earlier you mentioned it is your plan at the end of ten years to turn the company over to the employees.

MR. SEDGWICK: The lots will be almost all sold. The employees will be management and maintenance people at that time. What they will have will be the occasional sale and whatever revenue accrues from tending the graves, and whatever revenue is paid over from the perpetual care fund for the maintenance of the cemetery, and whether there will be sufficient there to pay taxes, I do not know.

As I said, in the long-run, it is 50 years ahead and there will only be one fund which will be the perpetual care fund. The extent to which you pay taxes out of it will mean the extent to which you diminish the money which is there for the graves. The idea of taxing cemeteries is new in this province. It has never been done, so far as I know.

THE CHAIRMAN: It is your plan, when that cemetery is sold, out, that you will not enlarge. The deal is completed?

MR. SEDGWICK: Yes, it is finished. Of course, it is not beyond the realm of possibility there might be adjoining land which could be acquired to continue the cemetery, but it would be difficult to buy land adjoining an established cemetery, because the municipality would be built up.

THE CHAIRMAN: What would be the attitude of your company, supposing this Committee wants to go into the tax angle, to go into the revenue of your individual companies? Is that private or public information?

MR. SEDGWICK: That is private information, Mr. Chairman, because our stock is not listed. We do not have public participation. I have not consulted with my clients, but I do not suppose there would be any great objection to giving you the figures, but



it would not greatly affect our ability to pay taxes, except the Dominion taxes, or things of that nature. Municipal taxes are based on the land and there would be a time which would be rapidly approaching when our revenue will have no relation to the ability to pay.

THE CHAIRMAN: Your ability to pay would be a consideration, would it not?

MR. SEDGWICK: It would be a continuing consideration, because once all the lots are sold, we would cease to have any revenue, except revenue connected with the upkeep of the graves, so the ability to pay taxes would be limited to what we get from the perpetual care fund.

THE CHAIRMAN: Are you an authority on profit or lack of profit made in the operation of these cemeteries, in the opening of the graves, for instance?

MR. SEDGWICK: I know nothing about it.

THE CHAIRMAN: Would Mr. Edwards have an idea as to whether that is considered to be a profitable operation?

MR. EDWARDS: No, it is not, Mr. Chairman.

MR. SEDGWICK: Mr. Clark has said they just got along, and I suppose the income from the perpetual care fund and the other revenues, grave openings, and so on, in a well set-up cemetery, is sufficient to

maintain it, but very little more. Any excess would go back into the property, of course, in some way or another.

It is a problem, the problem of taxation. We say it would be unfair to say cemeteries should pay taxes, but it is very difficult to do it, because in the long-run, the dead own the cemeteries, not the living.

MR. WHITNEY: On page 17, you give figures for the analysis of the costs per acre, amounting to \$341.38. How long have the cemeteries had this information -- how long have they been in operation?

MR. EDWARDS: Six years.

MR. WHITNEY: There would not be any figures for a ten-year period. At the end of ten years, all of the Memorial Gardens pass over to the employees, that is the general policy, is it not?

MR. SEDGWICK: Yes, it is. I do not think there are any figures as long as ten years. I think this is what may be in your mind: I do not think any of our cemeteries go back to the period of low costs so that our figures are not falsified by low costs figures. They are gathered over the inflationary period.

MR. WHITNEY: During the first ten years, there should not be, as I understand it, the heavy

costs there would be in the latter years when the graves start to fill up and have to be replaced with sod and so on, and there is no longer the revenue from the sale of graves. In other words, after ten years, there is likely to be heavier costs than during the first ten years.

MR. SEDGWICK: I am told that while that is a problem, it has not been a great problem in this kind of cemetery. You do not have tombstones as a problem with this type of cemetery, so it is not the same.

MR. THOMAS (Ontario): In all these cemeteries operated in the United States, they have gone back to the employees for maintenance?

MR. SEDGWICK: No, I am told that they are very well operated indeed, and are very beautiful cemeteries. Unfortunately, I have never seen one, but I am told they are very beautiful.

MR. WHITNEY: On page 19, is the schedule of rates according to population in each municipality. I think it is customary for the cemeteries serving the large municipalities, to be placed in a rural municipality, because it is not often that you would be able to obtain land in a city of 100,000 or more to provide an adequate cemetery. So that figure you gave does not seem to fit the issue.

MR. SEDGWICK: No, I think it should say, "in areas adjacent to". I would think of the municipality as being a metropolitan area rather than the municipality itself.

MR. WHITNEY: As far as the future is concerned, there is not likely to be any more cemeteries built inside the city of Toronto.

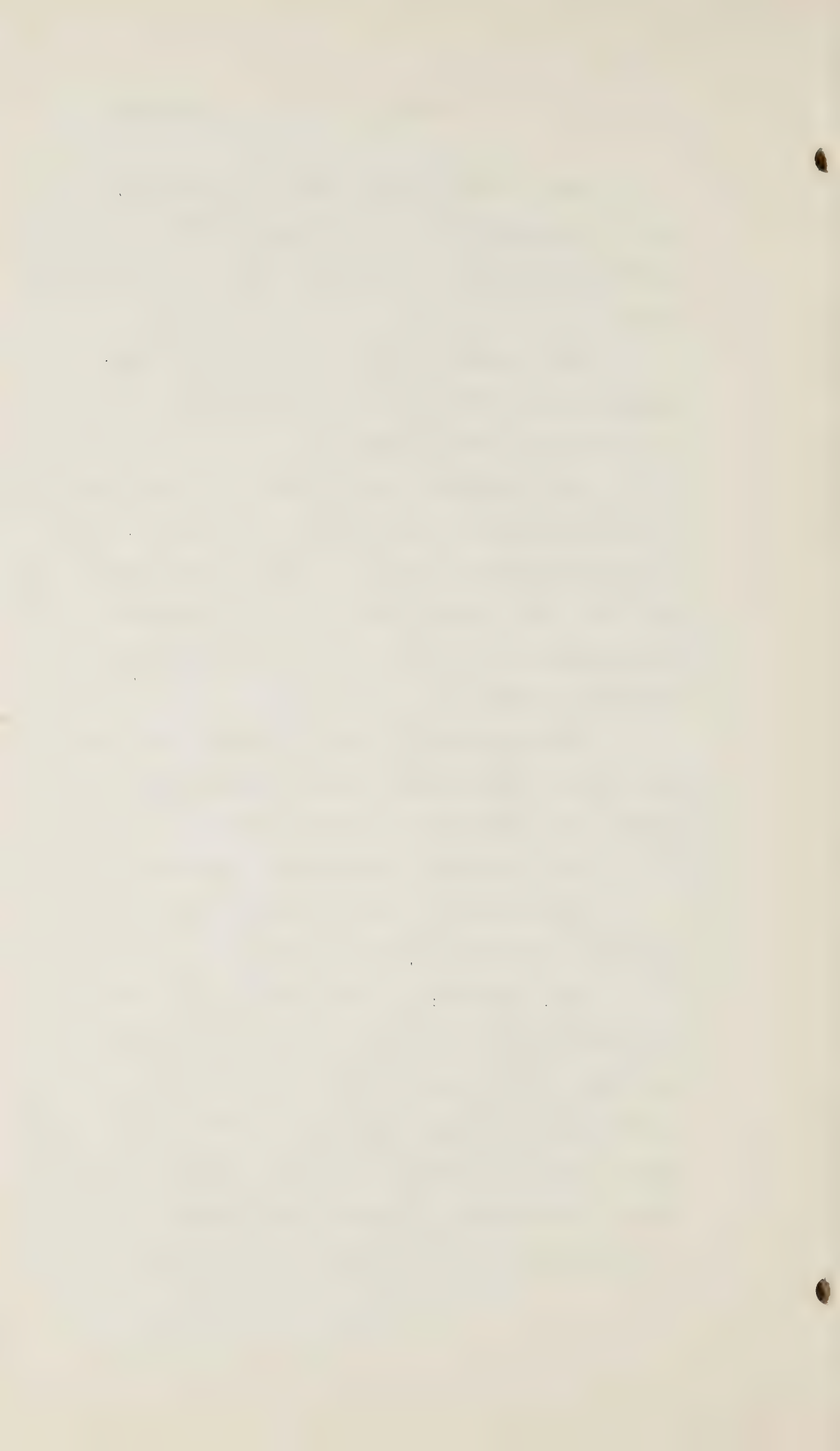
MR. SEDGWICK: That is true, but in the County of York, for instance, that is the case. However, these are only suggestions. They have merit as suggestions, but if you took this and said, "Cemeteries serving municipalities of 100,000 or more", I think that is what was intended.

THE CHAIRMAN: Is there a definite agreement now so far as the individual cemetery being taken over? Who owns the stock of the cemetery now?

MR. SEDGWICK: I have not the agreement.

THE CHAIRMAN: Do the Memorial Gardens own the stock of Forest Lawn, for instance?

MR. SEDGWICK: I could not say. I am not a solicitor for the cemetery. I did not draw up the documents, but I would be delighted to forward to the Committee some time long before you finish your deliberations, a statement as to the exact relation between the individual cemeteries and Memorial Gardens, and a statement as to the stockholders, and any



agreement they have.

THE CHAIRMAN: Would you be good enough to include a copy of your sales contract?

MR. SEDGWICK: Yes, I have one of them here and one of the protection agreements, and a copy of the deed, and it might be as well if you made up a brief containing all of them. I will file that with you. There is the deed, the protection agreement and sales contract as well.

THE CHAIRMAN: What kind of salesmen do you have selling these lots?

MR. SEDGWICK: I suppose my clients will say, "the very highest type".

THE CHAIRMAN: Are they selling on commission? Are they full-time employees of the company?

MR. SEDGWICK: They are employees of the Cemetery Board, but they are paid on a commission basis.

THE CHAIRMAN: What happens if a man dies the day after he signs a contract with your company?

MR. SEDGWICK: I understand if he has paid the cost of one grave, and died the next day, I suppose they would bury him in the cemetery.

THE CHAIRMAN: This says, "guarantees a free deed". If a man had made a contract with you,

and died, you have to guarantee him space in two years, what would happen to him?

MR. SEDGWICK: Mr. Edwards tells me it is a problem that has seldom arisen, because they go ahead with the development as soon as they start selling lots. If by any chance some purchaser dies and the lot which he had purchased was not developed, they return the whole of the money paid in the same way as a man who did not have a free deed lot. It is a rare thing because as soon as they start to sell, they develop, and they develop generally ahead of sales, rather than behind them.

MR. ROOT: You were speaking about the distribution of your dollar, but $25\frac{1}{2}\%$ went to sales cost, and $9\frac{1}{4}\%$ went to profit. If you add the two together, it comes to 35% . I wondered if the cost of the plots could be reduced 35% if it were not for your sales cost and your profit?

MR. SEDGWICK: Then we would be out of existence, because Memorial Gardens Association is not a charitable institution. It is not interested in operating cemeteries for the fun of it. If you deduct those figures, it is true the lots would be cheaper, but we would not be in the business of selling them. I do not know what your business is,

but if you operated and charged no selling costs, and no profit, you would soon be out of business.

MR. ROOT: But there is no comparison of what the sale cost would be if the cemetery were not operated that way.

MR. SEDGWICK: They might and they might not be down. There is something to be said for selling in volume. The sales cost, if not sold this way, might be as high as those costs, because it is not true that added sales cost always mean an added cost to the purchaser, indeed, it is argued it lessens the cost somewhat.

THE CHAIRMAN: Are there any other questions anyone would like to ask Mr. Sedgwick?

MR. WHITNEY: There is no provision made for indigent burials by agreement with the municipality.

MR. SEDGWICK: I believe they do provide a certain amount of plots for indigents. Yes, Mr. Edwards tells me they provide whatever is needed. We accept our share of indigent burials. For that, we get nothing.

THE CHAIRMAN: I do not think you are a cemetery specialist, are you?

MR. SEDGWICK: No sir, I am not.

THE CHAIRMAN: You mentioned the losses

municipalities have on cemeteries and I suppose one of the reasons for that is, they sell their lots much more cheaply.

MR. SEDGWICK: Maybe they sell them more cheaply, maybe it is not so much more cheaply. It may well be the reason that they are operating on a loss, is because the upkeep is tremendously more than ours.

THE CHAIRMAN: It may be the backlog of old cemeteries they have for which there is no perpetual care fund.

MR. SEDGWICK: In my survey of comparative costs, I say we think our costs were, generally speaking, in line with the costs of the tombstone cemeteries, as a matter of fact, their costs were much higher.

THE CHAIRMAN: To say a word for municipal cemeteries, it is possible that loss is because of the old sections of cemeteries which have been neglected.

MR. SEDGWICK: Of course, one must have nothing but praise for the cemeteries which have faced up to the problem of taking them over.

THE CHAIRMAN: To keep up what would be an abandoned section of the cemetery.

MR. SEDGWICK: Yes. I would not want it thought anything in this brief is critical of them,

but I do quarrel with the statement the taxpayers should bear the cost of the cemeteries. It is not the only answer.

MR. HANNA: Would it be cheaper to be buried in a Memorial Gardens than in an ordinary cemetery with tombstones?

MR. SEDGWICK: Yes, it would be cheaper, because you do not pay for tombstones.

MR. HANNA: What are the headstones worth?

MR. SEDGWICK: I think they are on a granite base below ground, and I think they cost from \$80.00 up, depending upon the size. They are on a granite base, and as the picture shows, they are a flush memorial with the ground.

THE CHAIRMAN: We are very grateful to you, Mr. Sedgwick, and anything further you can give us will be welcome. There is no doubt that the question of the taxing of privately owned cemeteries will be considered by the Committee, and any information which you can give us which will help us in that direction, would be appreciated.

MR. ROOT: The municipality at the present time is saddled with the abandoned cemeteries. Someone has to support them and I am surprised your clients do not object to a municipal tax.

MR. SEDGWICK: I do not think we should support them. I must confess I never thought of the municipal taxes in that light. I had thought of them as being a return for certain municipal services which are supplied, but I never thought we should be burdened with the support of the abandoned cemeteries. We had nothing to do with them being abandoned. We may take some of them over and do the best we can, but I would not like it put on the basis of taxation.

MR. ROOT: What about a person who buys in an ordinary cemetery and then pays the municipal tax?

MR. SEDGWICK: He is not saddled with the municipal taxes except where the municipality takes it over. Ordinarily, the cemetery is not taxed. If it is, it is through an indirect tax, of course. The cemeteries sometimes have been taken over by the municipalities, and where there are losses, those losses are taken over, and there are many municipal cemeteries which have profits and not losses. However, I do not think one can equate the problem of taxes on profit cemeteries to the losses which other cemeteries may suffer.

MR. ROOT: Do you have any suggestion as to how we should take care of the abandoned cemeteries if you are going to sell new lots with a clean sheet?

MR. SEDGWICK: We did have a suggestion, but I took it out of the brief because I thought it should not be there.

We thought it might be possible to take the abandoned cemeteries and arrange for some central cemetery in each county, moving them and closing them, so that there would be one problem instead of ten or twenty problems.

We thought it might be presumptuous for us to suggest it, so we did not put it in the brief because it is not really our pigeon. I am not here to suggest what you should do with abandoned cemeteries. My people have some ideas, but whether they would be acceptable is another question. I know in Durham County, there are four or five burying grounds where the grass and weeds have completely covered it over, and I do hope the Committee will not suggest that it be placed on our shoulders.

MR. ROOT: You should be willing to assume your share of it.

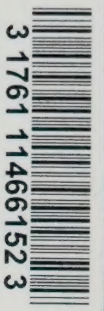
MR. SEDGWICK: Not of that burden.

THE CHAIRMAN: Thank you very much, Mr. Sedgwick.

We will now adjourn until tomorrow morning at 9:30 a.m.

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---Whereupon the further proceedings of this Committee adjourned until Tuesday, September 15th, 1953, at 9:30 o'clock, a.m.



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